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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)  
PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं  
Orders and Notifications issued by Central Authorities (other than Administrations of Union  
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 27 दिसम्बर, 1990

आ.अ. 3—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, मेघालय सरकार के परामर्श से श्री आर. वी. पिल्लै, आई.ए. एस. के स्थान पर श्री जे. एम. फोरा, आई. ए.एस., विशेष अध्युक्त व विशेष सचिव, मेघालय सरकार को उनके कार्य भार सम्भालने की तारीख से अगले आदेशों तक मेघालय राज्य के मुख्य निर्वाचन अधिकारी के रूप में एतद्वारा नामनिर्दिष्ट करता है।

[सं. 154/मेघालय/90]

आदेश से,

के.पी.जी. कुट्टी, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 27th December, 1990

O. N. 3.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Meghalaya, hereby nominates Shri J. M. Phira, IAS, Special Commissioner and Special

Secretary to the Government of Meghalaya as the Chief Electoral Officer for the State of Meghalaya with effect from the date he takes over charge and until further orders vide Shri R.V. Pillai, IAS.

[No. 154/Meg/90]

By Order,

K. P. G. KUTTY, Secy.

नई दिल्ली, 2 जनवरी, 1991

भा. प्र. 4.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुमति में, निर्वाचन आयोग, 1990 की निर्वाचन प्रती सं. 1/1990 में पंजाब और हरियाणा उच्च न्यायालय के दिनांक 10 जुलाई, 1990 का निर्णय एतद्वारा प्रकाशित करता है।

संलग्न आदेश अंग्रेजी में छापे हैं।

[संख्या 83/हरि.—लो. स./1/90]

आदेश से,

राम किशोर, अवसर सचिव

New Delhi, the 2nd January, 1991

O.N. 4.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement dated the 10th July, 1990, of the High Court of Punjab & Haryana at Chandigarh in Election Petition No. 1 of 1990.

[Ni. 82|HN-HP|1/90]

# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

## CIVIL SIDE

### ELECTION PETITION No. 1 of 1990

Ram Singh (Colonel) son of Captain Hari Singh, Kanina House, Rewari (Haryana) ... Petitioner

#### Versus

1. Birender Singh (Rao) Adopted son of Rao Bahbir Singh Rampura, Rewari, District Rewari (Haryana).

2. Kishan Lal son of Sh. Suraj Bhan, resident of Mahendargarh, Distt. Mahendargarh (Haryana).

3. Ghanshyam son of Girvar, resident of Kisan Sales, Purana Bus Stand Narnaul, Distt. Mahendargarh.

4. Chatar Bhuj Dixit son of Shri Siri Ram Dixit, resident of Village Jatwas, Post Office Mahendargarh, Distt. Mahendargarh (Haryana).

5. Chiranji son of Harphul, resident of village and Post Office Khorl, Tehsil Bawal, Distt. Rewari (Haryana).

6. Jaswant Singh son of Shri Seodutt Ram, resident of Mahendargarh, Distt. Mahendargarh.

7. Budh Ram son of Sh. Ram Jiwan, resident of Village and Post Office Tikli, Distt. Gurgaon (Haryana).

8. Bhup Singh son of Sh. Bhagat Singh, resident of Model Town, Rewari, Distt. Rewari (Haryana).

9. Mahavir son of Shri Ram Kumar, resident of Kutab Pur, Rewari, Distt. Rewari (Haryana).

10. Rattan Lal son of Shri Behari, resident of Village Nurpur, Post Office Karwara Manakpur, Distt. Rewari (Haryana).

11. Ratti Ram son of Shri Sanwal Ram, resident of Village Bhushan Khurd, Distt. Mahendargarh (Haryana).

12. Ram Kishore son of Shri Ram Jiwan, resident of Narnaul, Distt. Mahendargarh (Haryana).

13. Shiv Kumar son of Shri Babu Lal, resident of Village and Post Office Madhogarh, Distt. Mahendargarh (Haryana).

14. Sudarshan Kumar son of Shri Sham Sunder, resident of Mohalla Chowk Mahendargarh, Distt. Mahendargarh (Haryana).

15. Daya Ram son of Sham Lal, resident of Mohalla Pathar Ghati, Rewari, Distt. Rewari (Haryana).

16. Mahabir son of Shri Kalu Ram resident of Village Roliawas, Post Office Dehlawas, Gulab Pura, Distt. Rewari (Haryana).

17. Rajinder Singh son of Shri Chiranji Lal, resident of Village Sheema, Distt. Mahendargarh (Haryana).

Respondent.

Petition under Section 81|83 of Representation of the People Act, 1951 praying that —

- (i) the sealed bundles of ballot papers may be ordered to be reopened and all the ballot papers relating at least to the six segments of the constituency namely 62 Pataudi, 85 Bawal, 87 Jatusana, 88 Mahendargarh, 89 Ateli, 90 Narnaul, be ordered to be rescrutinised and recounted;
- (ii) the election of the returned candidate, respondent No. 1 be declared void; and
- (iii) the petitioner be declared as duly elected from the Constituency.
- (iv) Costs of the petition be allowed to the petitioner.

Dated the 10th July, 1990

PRESENT :

The Hon'ble Mr. Justice M. S. Liberhan.  
For the Petitioners :

Mr. Anand Sarup, Sr. Advocate with  
Sh. Ajay Tewari, Advocate, and  
Sh. M. L. Saini, Advocate.

For the Respondent :

Mr. J. K. Sibal Advocate and Sh. Jagdev  
Sharma, Advocate.

Judgement

M. S. Liberhan J.

The petitioner challenged the election respondent No. 1 to 7 Mahendargarh Parliamentary Constituency being void on account of illegality and irregularities committed in the counting. It was further

prayed that the petitioner be declared elected after scrutinising and recounting the ballot papers.

2. The petitioner and respondent No. 1 the returned candidate alongwith 16 other candidates contested the election held on November, 22, 1989 from 7 Mahendargarh Parliamentary Constituency. Respondent No. 1 the returned candidate secured 3,04,805 valid votes and the petitioner secured 3,01,295 valid votes. Thus the returned candidate was declared elected by a margin of 3510 votes. Other candidates secured very nominal number of vote, which are irrelevant for the consideration of this petition.

3. 7-Mahendargarh Parliamentary Constituency is constituted of 9 segments and each segment represented the Vidhan Sabha Constituency. The returned candidate was declared elected on November 27, 1989 by the Returning Officer at Narnaul. The counting was undertaken at nine different places, representing each segment by the Assistant Returning Officer at each segment. The postal ballots were counted by the Returning Officer on November 26, 1989 at Narnaul.

4. The petitioner alleged violation of rules, regulations, provisions of the Representation of the People Act, 1951 (hereinafter referred to as the Act) and the instruction of the Election Commission in counting. Though there are some differences in figures and the names of the counting agents but the averments with respect to illegalities and irregularities in counting in six of the segments are largely common and can be fairly so regarded.

(5) The charter of claim in the petition for seeking the recounting in substance is, that out of the nine constituencies, in six constituencies the counting agents of the petitioner complained to Assistant Returning Officers that they were deprived of the pencil and the papers by the counting staff, the counting supervisor's illegally rejected the votes polled in favour of the petitioner and illegally accepted the rejectable votes polled in favour of the returned candidate, counted the bundles of 50 votes of the petitioner for that of the returned candidate, and made the bundles wrongly by putting 55 votes of the petitioner in bundles, counted as 50, and by putting 45 votes in the bundles of the returned candidate, and counted it for 50, accepted the rejectable votes of the returned candidate. Again the Supervisor rejected the votes carrying the smeared thumb-impression on the ballot paper in case of the votes polled in favour of the petitioner while did not do so in case of the vote polled in favour of the returned candidate. This has resulted in rejecting the higher number of votes. It is further averred that the counting Supervisor made two bundles, one of the rejected votes and the other of the doubtful votes. The Assistant Returning Officer only scrutinised the doubtful votes and the other votes were only stamped with a stamp of rejection and initialled mechanically which resulted in non-application of mind for rejection of the votes by the Assistant Returning Officer. It is claimed that the votes not marked with the prescribed

instrument were wrongly rejected as invalid and most of such votes were cast in favour of the petitioner. It is further stated that there is an irregularity in Form-20 with respect to totalling of votes horizontally as well as vertically.

(6) The petitioner stated that on account of improper rejection of valid votes and by improper reception of void votes, result of the election so far as it relates to the returned candidate has materially been affected.

(7) It is further stated that 2514 postal ballots were received by the Returning Officer out of which 1485 votes were found to be valid and the petitioner secured 745 valid postal votes and returned candidate secured 605 valid postal ballots. The remaining votes were received by the other candidates. It is alleged that counting agents complained to the Returning Officer that rejection of 1029 postal ballots was on the spurious ground to the effect that the secrecy of voting had not been maintained, which is not a ground for rejection of valid votes in terms of rule 54A of the Conduct of Election Rules, 1961 (hereinafter referred to as the Rules). The petitioner claimed that most of the rejected votes were polled in his favour. It is further claimed that the result of the election has been materially affected by non-compliance with the provisions of the Act and the Rules. In fact the petitioner has received a majority of valid votes and hence is entitled to be declared elected.

(8) The returned candidate put in appearance and denied the averments made. Preliminary objections are raised to the effect that the petition does not disclose any cause of action and is bereft of material facts. It does not raise any triable issue, the petition is not duly verified. Thus no note of the petition can be taken of as there is no petition before the Court in the eye of law. It is further stated that the petition was presented on January 8, 1990. On scrutiny objections were raised by the office to the effect that the petition has not been verified by the petitioner, many copies of the petition do not tally with the petition and Form-B has not been filed. The Registry returned it to remove the objections within a week's time. The petitioner after removing the objections pointed out, refiled the same on January 29, 1990. The result of the election was declared on November 27, 1989. Thus the petition having been refiled after the expiry of limitation is stated to be barred by time.

(9) The petitioner filed replication and claimed that the petition does disclose a good cause of action and all material facts envisaged by section 83 of the Act have been set out in the petition. Since the election petition contains complex averments consequently each paragraph and sentence cannot be verified separately. The verification of the averments is proper and in accordance with rules and even if there is any error in verification, the petitioner is ready and willing to modify the same. It is claimed that proper copies were filed along with the election petition and they were all true copies of the election petition including the one supplied to the answering respondent. The objections raised by the office in

this respect were wholly unwarranted and the petitioner removed the objections merely to avoid unnecessary confrontation with the office. The pleas taken in the petition are reasserted.

(10) On the pleadings of the parties, the following preliminary issues were framed :

- (1) Whether the Election Petition does not disclose any cause of action ? OPD
- (2) Whether Paras 8 and 12 of the Election Petition are not duly verified ? OPD
- (3) Whether the Election Petition is within limitation ? (Onus objected to)

(11) It has been well established by the catena of judicial pronouncements of the Hon'ble Supreme Court that the Representation of People Act and the Rules framed thereunder is a complete code in itself. Instructions issued by the Election Commission are statutorily enforceable. It has been recognised in the judicial pronouncement that the Act, Rules and instructions emphasised upon the secrecy of voting. The secrecy of voting has been given prime importance and the legislation demanded the same to be maintained zealously. Violation of secrecy has been made penal by the Act. The only exception which has been added by the judicial pronouncement is that the secrecy can be violated only if the statutory provisions of the Act and Rules or Constitution have been violated and the irregularities and illegalities committed fall within the four corners of section 100 of the Act.

(12) Again there is no gain saying that purity of election is another hall-mark for the survival of democracy. Secrecy is not inviolable. Purity of election process cannot be sacrificed at the altar of secrecy. The inspection of the ballot papers can be ordered by the Courts. Wherever justice so demands or it is required for holding of a fair election or to safeguard the purity of election process so that people do not get elected in flagrant violation of the process of law and fair practice. The principle of secrecy has to be balanced with the demand of purity of election. The counting, inspection of ballot papers and recounting is regulated by the statutory provisions of the Act, Rules and the instructions of Election Commission.

(13) It has become axiomatic that the statutory requirements of the election law must be observed. In a democratic set up, process of election is the only process which provides the people to choose their political managers who can and are supposed to echo the views of the people. Judicial review of the election is only permissible with an object that any person should not tinker with the process of election and get elected fraudulently or by committing corrupt practices and by other means which would not represent or reflect true will of the people. The powers have been conferred on the Courts to take care of the purity of elections.

(14) It has been accented and established principle that there is no fundamental right or any other right which accrues to a person other than the one

which is conferred by the Representation of people Act. Election Petition is not an action at law or a suit in equity but it is a statutory proceeding unknown to common law. The Courts have no common law or power. It is not an ordinary lis between the parties. In this lis whole of the constituency is involved.

(15) It has been observed by the Hon'ble Supreme Court that election should not be lightly interfered with. It cannot be set aside on any other ground except provided by section 100 of the Act. The petitioner or a person challenging the election cannot be permitted to play a game of hide and seek. Since the Act and rules provide inbuilt safeguards to maintain the purity of election process, the statutory requirements of law must be strictly observed. The election process is a time consuming and, extrivialities. It can only be set aside on material circumstances touching the substance of the election. The election process is a time consuming and expensive process and cannot be disturbed except on the grounds envisaged by the Act. The Hon'ble Supreme Court observed that the provisions of election law are to be strictly construed irrespective of its consequences. Rights conferred under the election law are creature of the statute which confers limited rights on a person in its terms. The rights are subject to the limitations imposed by the Act.

(16) It has been observed that the election should not be treated in a light hearted manner and the defeated candidate should not get away with it by filing an election petition on unsubstantial ground thereby introducing uncertainty in an election. Verdict given by the electorate is not of one person or official. While dealing with an election petition one has to be conscious that the whole constituency is present before the Court. Permitting a frivolous petition to continue would not only waste the Court time which is a public time but would also keep the returned candidate on tenter hooks and he would not be able to discharge his duties as an elected representative of the people. The election disputes have not to be resorted as to how the petitioner thought of it but they have to be viewed from the point of view of the requirement of law as the whole public is interested and not only the candidate. The petitioner is bound to show demonstrably the irregularities and illegalities committed in the process of election in the Election Petition.

(17) The Hon'ble Supreme Court in Roop Lal Sathi v. Nachhattar Singh, A.I.R. 1982 S.C. 1559 observed that it was incumbent upon the appellant to find out the entire circumstances in which the Election Commission passed the order. Non-disclosure of facts to show how the order was bad etc. and how there was non-compliance of the Constitution, Act and Rules would not constitute the plea of non-compliance. The Courts are bound to decline the roving and fishing enquiry into the ballot papers or the election process. In order to enquire the Courts are not to grant an opportunity to a defeated candidate to play the game of chess and take a chance of the election being declared void without spelling out the material facts for setting aside the election. Non-disclosure of facts to show how the order was bad etc.

how the facts stated amounts to non-compliance with the provisions of Constitution or Act or Rules etc. The plea can be treated to be a plea disclosing material facts constituting the plea of non-compliance of Act etc. as envisaged by section 100(1)(d)(iv) of the Act.

(18) At this stage, it would be expedient to refer to the methodology and mechanism provided by the Act and Rules and instructions for counting and inspection of ballot papers. Under the scheme of the Act, a candidate can appoint one or more than one counting agents who can perform the acts authorised. Reference may be made to sections 47 and 49 of the Act. Under the scheme of the Act, for every constituency one Returning Officer is required to be appointed. Keeping in view the quantity of the work and other fact in view, one or more than one Assistant Returning Officers can be appointed to assist the Returning Officer. The Assistant Returning Officer shall be subject to the control of the Returning Officer. The Assistant Returning Officer has been authorised to perform all the functions of the Returning Officer with an exception carved out with respect to nomination paper to the election. An inclusive definition of the Returning Officer has been provided by the Act. The Returning Officer and the Assistant Returning Officer are duty bound to effectually conduct the election. The Act further provides that the absence of any of the persons connected with the election process would not invalidate the election or otherwise any act or thing duly done in accordance with law. It is the Returning Officer who has been authorised to supervise the counting and declare the result. Reference may be made to sections 64 and 66 of the Act.

(18) The Act further provides vide section 128 that every person is enjoined upon to maintain the secrecy of ballot paper and violation of the same has been made penal.

(19) Under the Act, Competent Authorities have framed statutory rules known as Conduct of Election Rules 1961. Rule 17 confers a right on specified persons to vote by post. The rules envisage that the postal ballots are to be in the prescribed form with counterfoil. They are to be sent under a certificate of posting with Form 13-A in Cover 13-B of the Rules. Along with it, a larger cover 13-C along with the instructions in Form 13-D are required to be sent to the voter. The Returning Officer is duty bound to record the electoral number on the counterfoil and mark the marked copy of the electoral roll to indicate that the ballot paper has been issued. Thereafter he will seal the record and the counterfoil separately.

(20) Rule 24 of the Rules provides that the voter will sign the declaration in Form 13A despatched along with the postal ballot and get the signature attested by the authorised officer. The Act and Rules provide that every voter shall maintain the secrecy, otherwise ballot paper is liable to be cancelled.

(21) Rules 50 defines a counting agent, a candidate and the election agent. The candidate has been

authorised to appoint 15 to 16 counting agents one week before the date of counting. The counting agents are permitted to enter the place of counting on production of the appointment issued by the Returning Officer. Rule 54 debar the entry of any other person into the counting hall or the place except the persons authorised in the rules. It is the sacred duty of the Returning Officer to apprise the persons present on the place of counting with respect to the secrecy of ballots.

(22) Rule 54-A makes it incumbent upon the Returning Officer to deal with the postal ballots first. Rule 54-A runs as under :

“54-A. Counting of votes received by post—

(1) The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.

(2) No cover in Form 13-C received by the Returning Officer after the expiry of the time fixed in this behalf shall be opened and no vote contained in any such cover shall be counted.

(3) The other covers shall be opened one after another and each cover is opened, the returning officer shall first scrutinise the declaration in Form 13A contained therein.

(4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13B that cover shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein contained.

(5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13-C and all such covers in Form 13-C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the constituency, the date of counting and a brief description of its content.

(6) The returning officer shall then place all the declarations in Form 13A which he has found to be in order in a separate packet which shall be sealed before any cover in Form 13B is opened and on which shall be recorded the particulars referred to in sub-rule (5).

(7) The covers in Form 13B not already dealt with under the foregoing provision of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.

(8) A postal ballot paper shall be rejected —

(a) if it bears any mark (other than the mark to record the vote) or writing

by which the elector can be identified; or

- (aa) if no vote is recorded thereon; or
- (b) if votes are given on it in favour or more candidates than one; or
- (c) if it is a spurious ballot paper; or
- (d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (e) if it is not returned in the cover sent along with it to the elector by the returning officer.

(9) A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(10) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention and the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(11) The returning officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 20 and announce the same.

(12) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and, kept together in a packet which shall be sealed with the seals of the returning officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the constituency, the date of counting and a brief description of its contents."

(23) Reading of the said rule makes it discernible that the Returning Officer first set apart the covers under section 13-B received after the expiry of time. With respect to the other postal ballots the Returning Officer is required to scrutinise the declaration form in 13-A. In the eventuality of the declaration form not found or not duly attested or signed or otherwise substantially defective or in case the serial number of ballot paper or declaration form and that on the envelope 13-A differs it shall set apart the envelope under section 13-B after due endorsement in case of defective declaration as envisaged above. The cover will not be opened and shall be set apart putting them in a cover 'C' and sealed with particular entries on it. It is only the postal ballot where the declaration in Form 13-A are found in order that shall be sealed separately with an endorsement with respect to name of constituency with date of counting with

brief description on it. Thereafter cover 13-B shall be scrutinised along with ballot paper. Section 54-A *ibid* provides the grounds on which a postal ballot can be rejected. Rule 54A (8) (a) (referred to above) makes it obvious that if the postal ballot paper bears any mark or writing by which the elector can be identified, the ballot paper is rejected meaning thereby that if the secrecy of the vote is not maintained by the voter, the ballot paper is liable to be rejected or cancelled. After the scrutiny of the ballot papers and rejecting the same, if any, on the ground mentioned in section 54-A above the rejected ballot papers shall be separately bundled and sealed with an endorsement and thereafter counting the valid votes of the postal ballots an entry is to be made with respect to the votes received by the candidate in Form 20. Rule 91 emphasised the secrecy of the ballot or the vote to be kept inviolative.

(24) The mechanism of counting the other votes is to the effect that in a counting place there would be 14 tables provided for counting and 15th table provided for the Returning Officer or the Assistant Returning Officer who will sit on a raised platform to supervise the counting. On each table, it is provided that there would be one supervisor and two counting assistants. Each candidate can appoint one counting agent for each table. The Returning Officer or the Assistant Returning Officer after satisfying himself with respect to the ballot boxes having not been tampered with shall get them opened at the counting tables. The Returning Officer or the Assistant Returning Officer is required to distribute the ballot boxes in serial order of polling stations on the counting tables. The Returning Officer shall keep in view that the ballot boxes used at one polling station or booth are brought in one lot and given at one table. The ballot papers account in Form 16 is given to the Supervisor along with the ballot boxes relating to them. The Supervisor on the counting table after showing to the counting agents that the ballot boxes are not tampered with, open the same one by one and get counted the total number of ballot papers found in each and make a note of it. Thereafter the counting assistants sort out the ballot papers according to the candidates. The invalid votes or those the validity of which has been objected to are to be placed in 'A' group bundle of doubtful votes. For Convenience, bundles of 50 votes are to be prepared of the valid votes with respect to each candidate. After the counting on the table Counting Supervisor shall fill the form in Part II of Form 16 and point out discrepancy, if any, in the ballot paper account and make an entry of the actual ballot papers found.

(25) After completion of the above process, the Supervisor is required to take the bundles of the sorted ballot papers along with doubtful ballot papers liable to be rejected along with Part II of the Form 16 to the Returning Officer or the Assistant Returning Officer's Table. Returning Officer or the Assistant Returning Officer would take the packets in serial order, tally the ballot paper account and thereafter scrutinise. Each ballot paper in the bundle of doubtful ballots/ballots liable to be rejected and shall reject

the ballot papers on the grounds envisaged by Rule 56-A which runs as under :—

“Counting of Votes : (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The returning officer shall reject a ballot paper —

- (a) if it bears any mark or writing by which the elector can be identified, or
- (b) if it is a spurious ballot paper, or
- (c) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
- (d) if it bears a serial number, or is of a design, different from the serial number or, as the case may be, design, of the ballot papers authorised for use at the particular polling station, or
- (e) if it does not bear (both the mark and the signature) which it should have borne under provisions of sub-rule 38 :

Provided that where the returning officer is satisfied that any such defect as is mentioned in clause (d) or clause (e) has been caused by any mistake or failure on the part of the presiding officer or polling officer, the ballot paper shall not be rejected merely on the ground of such defect.

(3) Before rejecting any ballot paper under sub-rule (2), the returning officer shall allow the counting agents present a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper.

(4) The returning officer shall record on every ballot paper which he rejects the letter ‘R’ and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.

(5) All ballot papers taken out of any on ballot box and rejected under this rule shall be made into a separate bundle.

(6) Every ballot paper which is not rejected under this rule shall be counted as one valid vote :

Provided that no cover containing tendered ballot papers shall be opened and so such ballot paper shall be counted.

(7) After the counting of all ballot papers contained in all the ballot boxes need at a polling station has been completed —

- (a) the counting supervisor shall fill in and sign part II—Result of Counting in Form 16 which shall also be signed by the returning officer; and

(b) the returning officer shall make the entries in a result sheet in Form 20 and announce the particulars.”

(26) Rule 56-A envisages that the Returning Officer before rejecting any ballot paper shall allow the counting agents present on his table a reasonable opportunity to inspect the ballot paper but shall not allow them to handle it or any other ballot paper physically. The Returning Officer is bound to permit the counting agent to note the ballot paper number in case the ballot is rejected. The Returning Officer has been provided with a rubber seal engrossed with the above noted form of grounds of rejection of ballot paper. The facsimile of the Rubber Seal “Rejected (i) No marking (ii) Mark on blank area (iii) Multiple voting (iv) Voter identifiable (v) Mutilated (vi) Not genuine.” The Returning Officer shall tick mark the ground on which he has rejected the ballot paper and initial. The rejected ballot papers shall be made into a separate bundle. Thereafter the Returning Officer shall tally the entries in part II of Form 16 filled by the Supervisor and after making appropriate correction shall sign the same and make the entries as found by him to be correct in part II or after correction make entries in the result sheet in Form 20 and announce the particulars. This elaborate counting procedure with checks and counter-checks is provided by rule 56-A, referred to above. Under this new system of counting mixing of ballot papers has been done away. With doing away the mixing of the ballot papers, now the counting is done according to the constituency and polling station-wise. After the completion of the counting and filling of Form 20, the Returning Officer is required to grant some time to the counting agents present to raise any objection to the counting and they can seek recounting in terms of rule 63 which runs as under :

“Re-count of votes—(1) After the completion of counting, the returning officer shall record in the result sheet in Form 20 the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or, in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to recount the votes either wholly or in part stating the grounds on which he demands such re-count.

(3) On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.

(4) Every decision of the returning officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the returning officer decides sub-rule (3) to allow a re-count of the votes either wholly or in part, he shall —

- (a) do the recounting in accordance with

rule 54A, rule 56 or rule 56A, as the case may be;

- (b) amend the result sheet in Form 20 to extent necessary after such re-count; and
- (c) announce the amendments so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the returning officer shall complete and sign the result sheet in Form 20 and no application for a recount shall be entertained thereafter :

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2)."

(27) A plain reading of rule 63 *ibid* makes out that a candidate, or election agent or the counting agent may apply in writing to the returning officer to recount the votes either wholly or in part stating the ground on which the demand for such recount has been made. The returning officer shall decide the matter and may either allow the application wholly or in part or may reject in toto. Every decision of the Returning Officer was to be in writing and with the reasons therefor. If any discrepancy is found on re-counting Form 20 would be suitably amended and the amendment shall be announced. On completion of the counting the returning officer shall sign the result sheet in Form 20 and after signing the same no further application for recounting is entertainable. The returning officer shall declare the result in Form 21-C and declare the person elected who has secured the maximum number of valid votes and send the result to the Election Commission and other persons as envisaged by the Rules. It is further enjoined that he will grant a certificate to the returned candidate. The returning officer after the declaration shall seal the ballot papers and other documents in accordance with rule 93 which will be kept in the custody of the District Election Officer. Under rule 93 except the unused ballot papers, used ballot papers irrespective of the ballot papers, used ballot papers irrespective of the fact whether they are valid tendered or rejected counterfoils of the used ballot papers and copy of the marked electoral roll, inspection of all other documents can be allowed and supplied. The ballot papers can only be inspected under the orders of the Court. The entire election process from issuing of the notification to elect till the declaration of the result including the election disputes are controlled and regulated by the Act, Rules and instructions of the Election Commission. All rights and duties flow from the statutory provisions and can be enforced only through the process provided for it.

(28) Part VI of the Act deals with the disputes regarding the elections. It provides that election can be called in question only through an Election Petition

in accordance with the provisions of Chapter VI Part II. Section 81 of the Act provides for the presentation of the petition and 82 parties to the petition. The election can be declared void only on the grounds enumerated under section 100 of the Act which runs as under :

"Grounds for declaring election to be void-(1) Subject to the provisions of sub-section (2) if (the High Court) is of opinion :

- (a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen to fill the "seat under the Constitution or this Act (or the Government of Union Territories Act, 1963 (20 of 1963); or
- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially effected —
  - (i) by the improper acceptance or any nomination, or
  - (ii) by any corrupt practice committed in the interest of the returned candidate (by an agent other than his election agent), or
  - (iii) by the improper reception, refusal or rejection of any vote of the reception of any vote which is void, or
  - (iv) by any non compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act.

the High Court shall declare the election of the returned candidate to be void.

(2)           xx           xx           xx".

(29) Section 101 of the Act provides that a person other than the returned candidate may be declared to have been elected if in the opinion of the High Court the candidate other than the returned candidate had received majority of the valid votes.

(30) Section 83 of the Act provides, what is to be stated in the petition. It runs as under :

"Contents of petition.—(1) An election petition—

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and



- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition."

(31) Section 86 of the Act provides that subject to the provisions of this Act and any of the Rules, the Election Petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908).

(32) By reading of section 100 of the Act, it is discernible that election of the returned candidate can be set aside if there was improper (a) reception of votes; (b) refusal of votes (c) rejection of any vote or (d) the reception of any vote which was void (e) if there was non compliance with the provisions of the Constitution or (f) provisions of this Act or (g) provisions of any rule (h) non compliance of the rules made under this Act.

(33) It is not sufficient for setting aside an election that any of the above grounds which are independent, are satisfied jointly or severally. The second ingredient which the petitioner has to establish before an election is set aside and which is mandatory is that any of the reasons or grounds or the facts jointly or severally has resulted in materially affecting the result of the election so far it concerns the returned candidate, that is the result of either improper reception of votes or improper refusal of votes or improper rejection of valid votes or the reception of void votes jointly or severally is such that it would result in his receiving lesser number of votes than any other candidate or if after taking out the votes so received by lesser number of votes than the other candidate, result will be deemed to have been materially affected. Similarly if the non compliance with the provisions of the Constitution or this Act or any rules or order made thereunder affects the result of the returned candidate in the above manner then his election would be set aside. Thus it emanates from section 100 of the Act that there are two ingredients, one is the ground of improper reception, refusal or rejection of any votes or reception of void votes; secondly materially affecting the result of the returned candidate.

(34) Section 83 makes out that the Election Petition shall contain a concise statement of material facts on which the petitioner relies. What are the material facts is not in res integra. By now it has come to be well established that material facts are the facts which constitute a complete causes of action. All facts which

entitle the petitioner to the relief claimed should be disclosed. Requirement regarding disclosure of material facts enjoins on the petitioner to disclose the facts and figures which may demonstrate the ground for setting aside the election. The petitioner is required to state the facts and not the law or the evidence by which he intends to prove the facts. Facts stated by the petitioner is the charter of claim against the defendants, no ritualistic formula can be spelled out for enumerating the material facts, anything which does not affect the election is of no significance nor any value can be attached to it. It cannot be part of material facts.

(35) Election should be fair to the elective institutions. No elective enterprises in the High Court should be allowed. The Court must zealously ensure that no wide net is thrown in the Election Petition to see if anything is caught. Roving and fishing enquiry is not permissible in Election Petitions. At the same time essential facts upon which the charge against the returned candidate can be found and are required to be substantiated are essential and material and such facts must be pleaded. Material facts would be the life of the petition. Not giving the material facts would prove fatal to the petition. Requirement of giving of material facts should be complied with, in letter and spirit. Compliance with the provisions of section 83 of the Act in the context and the scheme of the Act is Mandatory.

(36) It would be apposite at this stage to refer to the principles settled with respect to the pleadings and cause of action. The object of the pleadings is to give a fair notice to the party, to eradicate irrelevancy in bringing out to the focus of the parties the disputed questions of law and fact in forefront so that appropriate evidence could be brought on record. The petitioner is required to state his contentions as would be at the trial and as much as of the detail as the defendant apparently needs to know in order to prepare his appropriate defence or answer the case. Pleadings are not to be vague and ambivalent. No doubt while reading the pleadings one has not to approach the pleadings with pragmatic approach but at the same time the pleadings in an Election Petition in a High Court cannot be treated with laxity. They are not, usually drawn up by inexperienced or illiterate persons. The pleadings in election law are not an ordinary pleading between the two litigants fighting an ordinary lis. Here the entire constituency is represented by the petitioner or the returned candidate in opposition. The pleadings have to be strictly construed in terms of the Act as the rights sought to be enforced are statutory rights and not the rights in equity or common law rights or fundamental rights. Pleadings are to be construed strictly to the extent of the case pleaded as it is well known that no amount of evidence can be looked into unless there is a plea. There is no doubt when substance of a thing is there the pleadings cannot be thrown out.

(37) In *Badat And Co. Bomaby v. East India Trading Co.*, A.I.R. 1964 S. C. 538 after referring to the provisions of Order VIII, rules 3, 4 and 5 it was observed that "In the matter of mofussil pleadings, Courts, presumably relying upon the said proviso, tolerated more laxity in the pleadings in the interest of

justice. But on the Original Side of the Bombay High Court, we are told, the pleadings are drafted by trained lawyers bestowing serious thought and with precision. In construing such pleadings the proviso can be invoked only in exceptional circumstances to prevent obvious injustice to a party or to relieve him from the results of an accidental slip or omission, but not to help a party who designedly made vague denials and thereafter sought to rely upon them for non-suiting the plaintiff. [The discretion under the proviso must be exercised by a Court having regard to the justice of a cause with particular reference to the nature of the parties, the standard of drafting obtaining in a locality, and the traditions and conventions of a court wherein such pleadings are filed.] It was further pointed out that "It is of the highest importance that the rule of pleadings should be adhered to strictly, and that the Court should require the Defendant, when putting in his statement of defence, and the plaintiff, when replying to the allegations of the Defendant, to state the point of substance, and not to give formal denials of the allegations contained in the previous pleadings without stating the circumstances," and finally it was observed that "the pleadings on the original side of the Bombay High Court should also be strictly construed having regard to the provisions of Rules 3, 4 and 5 of Order VIII of the Code of Civil Procedure, unless there are circumstances wherein a Court thinks fit to exercise its discretion under the proviso to Rule 5 of Order VIII."

38. The rules of pleadings are for the fair trial. Action at law should not be equated with the game of chess. When the party in a petition makes the pleadings nebulous, petition fails at its threshold as the whole constituency is interested and not only the candidate. The pleadings have to be read what they convey. Matter has not to be resorted to how the petitioner thought or viewed but from the point of view of the requirement of law. Annexures referred to in the pleadings can be treated as part of the pleadings. They have to be read as a whole. It has been observed in *Udhav Singh v. Madhav Rao Scindia*, A.I.R. 1976 S.C. 744 as under :

"A pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context, in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words, or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, primarily, from the tenor and terms of his pleading taken as a whole."

The apex Court further guides us what are the material facts. As observed in *Dhartipakar Madan Lal Aggarwal v. Shri Rajiv Gandhi*, A.I.R. 1987 S.C. 1577, it is not in public interest to keep sword of Damocles hanging on the head of the returned candidate for an indefinite period of time as a result of which he cannot perform his public duties and discharge his obligations to his constituents. Ways and

means should be found to strike a balance in ascertaining the purity of election and at the same time in preventing waste of public time and money and in keeping the sword of Damocles hanging on the head of the returned candidate for an indefinite period of time. It was laid down that on a combined reading of sections 81, 83, 86 and 87 of the Act it is apparent that those paras of the petition which do not disclose any cause of action are liable to be struck off. If the Court is satisfied that the petition does not disclose any cause of action, the Court even does not wait for filing of the written statement, it has power to reject the petition under Order VI, rule 11. It was further observed that failure to plead even one material fact leads to an incomplete cause of action and incomplete allegation. Non-compliance of section 83(1)(a) of the Act must result in dismissal of the petition. It can be spelled out that pleadings have to be precise, specific and unambiguous. Cause of action has been observed in an Election petition to relate to the grounds under section 100 of the Act. Vague and general pleadings are embarrassing and should not be taken note of. It was further observed that there is no fundamental right or common law right in these matters. These are statutory rights regulated by a statute which is a Code in itself and the pleadings are regulated by section 83 of the Act. It is obligatory in an Election petition to give requisite facts with exactitude. If it fails to make out a ground under section 100 of the Act, the Election Petition must fail at its threshold. Emphasis has been laid to avoid the fishing and roving enquiry. It was pointed out that every allegation must be specific and should be complete in itself. Inference is not permissible in the pleadings. Basic ingredients in the form of facts disclosing those ingredients must be pleaded. What is a material fact in a given circumstance required to be pleaded is dependent on the nature of the charge and circumstances of the case. It is normally expected that the petitioner before filing the Election Petition finds out the circumstances and facts providing a cause of action to the petitioner.

39. It was observed in *Lalit Kishore Chaturvedi v. Jagdish Prasad Thada*, 1990(1) Judgment Today 215 that the petitioner must specify the grounds, that is the nature of the charge and facts necessary to make out the charge. Charge perpetrated together with material facts have to be stated clearly in the Election Petition. Mere reproduction of the words of the statute does not amount to charge in the absence of facts and the same cannot be amplified. It was observed that the plaint has to be read as a whole and intention has to be gathered from the tenor and terms of the pleadings as a whole. The principle with respect to pleadings laid down in 10th Chancery Division 294 at page 302 is to the following effect:

"Saying defendant did an act, wrongfully, unlawfully and improperly or without justification therefor or right sought to do without setting out the facts from which such conduct is to be inferred". It was stated "These epithets under the present system of pleadings are useless and redundant. They are nothing whatever to the plaintiffs

case. They are merely epithets and abuse. They were normally in the declaration from essential because under that form of pleadings legal rights were stated but facts stated non."

40. In *Pratap Singh v. Ranjit Rai and others*, A.I.R. 1984 Delhi 198, allegations of improper rejection of valid votes were made but serial number of the votes and the polling stations were not stated. It was held that it does not disclose any cause of action. It was alleged that 336 valid votes were wrongly rejected by the returning officer without giving him opportunity to be heard as provided in section 56(3) of the Act. It has held that the petitioner has not furnished material facts with regard to the rejected ballot papers. His case was that there was a wholesale rejection of his valid votes behind his back by the Returning Officer, though he had promised, that at the end of entire counting he would decide whether to reject or accept the 336 votes sent to him by the Counting Supervisors and on recounting 675 votes were rejected. It was alleged that 336 votes in his favour were wrongly rejected and it violated rule 56(3) of the Rules. He has given the break up of these 336 votes on this matter in following terms :

"From tables 1 to 14, 336 valid votes cast in favour of the petitioner, i.e. 25, 35, 37, 31, 41, 17, 13, 29, 39, 11, 16, 12, 9 and 21 respectively from the said tables were rejected. The counting agent informed the petitioner that his 486 votes were sent to the Returning Officer as doubtful. 336 votes were perfectly valid votes cast in favour of the petitioner. The petitioner made an application for recount of votes including the rejected votes. Re-counting was ordered by the Returning Officer of the votes but he refused to recount and examine the said 675 votes which were rejected by him on the ground that the counting was done in a very partisan manner so far as the petitioner was concerned."

The High Court held that the petitioner has not stated the material facts i.e. (1) he has not given the serial number of the 336 ballot papers which were, according to him, wrongly rejected by the Returning Officer; (2) he has not given the reasons for rejection; and (3) that he has not given the break up of 336 votes polling station-wise. It was essential for him to give the polling station numbers and the rejected votes at each polling station. All that the petitioner has given is the number of rejected votes at each of the 14 counting tables. This takes up nowhere. This information is not polling station-wise which he must give in order to succeed. As I have said, counting was polling station-wise. It cannot now be discovered as to what was the polling station at these tables to which the rejected votes related. The polling station is the unit of counting under the rules. "From tables 1 to 14, 336 valid votes cast in favour of the petitioner or i.e. 25, 35, 27, 31, 41, 17, 13, 29, 39, 11, 16, 12 and 21 respectively from the said tables" were rejected. Unless the information is given polling station-wise this allegation is worthless. It was further

observed "the petitioner had ample opportunity to examine the voting papers before they were counted. In respect of each voting paper he is in a position to set out precisely his objection for its acceptance or its rejection. He was also in a position to note down the ballot paper numbers. It is only if the ballot paper numbers are given that the particular ballot papers in regard to which the petitioner complaints can be taken out and scrutinised. In the absence of such information, which the petitioner should know or should be deemed to know, any inspection of ballot papers would be merely a roving and fishing inspection and the purpose of section 83(1)(a) is precisely to prevent this. There was ample opportunity to the candidates and their agents to inspect the ballot papers to enable them to raise objection and to note down the numbers of the ballot papers in respect of which the objections were raised. It would not be unreasonable to expect the candidate or his counting agent present at the time of counting to bear in mind that there may arise an occasion to file an Election petition when the particulars in regard to the number of ballot papers and the polling stations will have to be mentioned." Finally it was observed as under:

"On the whole I have come to the conclusion that the figure of 336 rejected votes given by the petitioner is a figment of his imagination. It has no foundation, no basis. It is vague and indefinite because material facts have not been stated. All that the petitioner has done is that he has taken an imaginary figure of 336 rejected votes and has broken it up into the fictional figures of 25, 35, 37, 31, 41, 17, 13, 29, 39, 11, 16, 12, 9 and 21 with respect to 14 tables. The pleadings lack the material facts inasmuch as the number of polling stations and the number of ballot papers are not given. These are basic requirements. A concise statement of material facts is a sine qua non of an election petition as of any other statement of claim. The petition violates the mandatory provisions of section 83(1)(a) and does not disclose any cause of action."

41. In *Jagannath Prasad Singh v. Kamalapati Tripathi and others*, 1981 Allahabad Law Journal 912, the High Court after observing that the allegation is only to the effect that the petitioner has come to know that large number of duplicate ballot papers were circulated by the respondent and his agents throughout the constituency and those duplicate ballot papers were used. It further demonstrated that at the time of counting the total number of ballot papers used were less than found in the ballot boxes which shows that duplicate ballot papers have been used. It was further averred that this appears to have been done throughout the constituency and the scrutiny of the ballot paper and ballot paper account would indicate that a large number of ballot papers are not genuine. The whole election is fraud and as such the result of the election has been materially effected by non-compliance with the Constitution and the Act. It was held that the petitioner has not given the number of the ballot papers which were counted in favour of the returned candidate and were duplicate substituted by the agents of the respondent. It

does not disclose the cause of action nor the material facts. It is a mere reproduction of the provisions of law which is no pleadings.

42. The material facts are *sine qua non* of an Election Petition. It was observed in *Charan Lal Sahu v. Giani Zail Singh* and another A.I.R. 1984 S.C. 309 that in an Election Petition it is not open to the petitioner to plead in terms of synonyms. The pleadings have to be precise, specific and unambiguous so as to put the respondent to notice. Importance of the specific pleadings in these matters can be realised and in the absence of specific plea itself the respondent is at a greater disadvantage. He must know what he must know, what case he is to meet. He cannot be kept guessing. The petitioner cannot be allowed to keep his options open until the trial opens and adduce evidence as it seems convenient and handy to him. That is the importance of the procedure and pleadings preliminarily in the Election Petition. It was observed in *Dev Chaudha v. Vasant Narain*, A.I.R. 1954 S.C. 513 that it would not be enough merely to say that majority of votes would/might have gone to the next highest candidate.

43. Keeping the above principle laid down by the apex Court in view, I am of the considered view that the petitioner before claiming to raise triable issues has to aver material facts in the Election Petition in the form of ground on which he challenges the election, charge made against the returned candidate and the facts constituting the charge and the facts necessary to formally complete the cause of action have to be stated in the Election Petition in the form of precise and specific pleadings with exactitude. It should not contain bold, vague and abivalent allegations. Mere repetition of the words of the statute does not amount to pleading of a material fact. The pleadings must be strictly and concisely construed in the spirit of law. It is incumbent on the election petitioner to show by pleading facts, how there was a non-compliance with the provisions of the Constitution and the Act. Mere stating that there is a non-compliance of the Constitution, the Act, or the Rules does not amount to pleading of a material fact and it would not disclose a cause of action to the petitioner. A distinction has to be kept in view between essential facts to be pleaded and drawing of inference from these facts which is a privilege of the Court. General allegations cannot be taken note of. Mere stating with regard to improper reception and rejection of votes without showing further, how it is improper reception or how it is improper rejection including the reason of rejection and the illegality in that and further showing a connection of the improper reception or rejection of votes etc. or violation of the rules and regulations with the effect on the result of the election so far it relates to the returned candidate, the pleadings would be bereft of material facts and the cause of action. The election petitioner is not only required to disclose the figures but also demonstrate how the result has been materially affected so far the returned candidate is concerned. It is essential to state the figures and how they have been arrived at. It would be these facts which will be the material facts and constitute a cause of action.

44. Law as reproduced above envisages that the election petitioner is required to plead, prove and

show (1) that the election result of the returned candidate has been materially affected (2) by (i) improper reception of votes; (ii) improper rejection of votes (iii) improper reception of void votes; and (iv) improper refusal of the votes. Each of the ground materially affecting the result of the returned candidate is an independent charge in itself. The petitioner is bound to disclose and demonstrate by giving facts and figures and the manner how they have been arrived at with respect to the votes improperly regard to improper reception and rejection of votes and how they have materially affected the result of the returned candidate.

45. One of the other grounds to challenge the election by the petitioner which is an independent ground is that non-compliance with the provisions of the Constitution, of the Act or any of the Rules, or Orders made thereunder. In my considered view, in such an Election Petition it is incumbent upon the election petitioner to state as a material fact which provision of the Constitution or the Act or the Rules or the Orders made under the Act have not been complied with and it is further incumbent upon the petitioner to demonstrably show by figures and facts how the alleged non-compliance resulted in materially affecting the result of the returned candidate. Mere stating the non-compliance of the provisions of the Constitution or the Act or the Rules would not disclose any cause of action or material facts which is *sine qua non* in terms of sections 83 and 100 of the Act.

46. It was observed in *Jitendra Bahadur Singh v. Krishna Behari and others*, A.I.R. 1970 S.C. 276 after noticing the judgments in *Ram Sewak Yadav v. Hussain Kamil Kidwai and others*, A.I.R. 1964 S.C. 1249 and *Dr. Jagjit Singh v. Giani Kartar Singh*, A.I.R. 1966 Supreme Court 773 that the petition for setting aside the election must contain adequate statement of material facts on which the petitioner relies in support of his case and the facts must be *prima facie* specified to show that to do justice between the parties, inspection of ballot papers is necessary. It was further observed that "the material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words, they must be such facts as to afford a basis for the allegations made in the petition." It was further observed as under :

"Now coming to the rejection of the votes polled in favour of the Congress nominee, under the rules before a vote is rejected the agents of the candidates must be permitted to examine the concerned ballot paper. Therefore, it was quite easy for them to note down the serial number of the concerned ballot papers. The election petition is silent as to the inspection of the ballot papers or whether the counting agents had noted down the serial numbers of those ballot papers or whether those agents raised any objection relating to the validity of those ballot papers; if so who those agents are and what are the serial numbers of the ballot papers to which each one of them advanced their objections. These again are the material facts required to be stated."

While dealing on facts, the Supreme Court commented on a plea like "about five thousand votes of the Congress candidates were improperly rejected ignoring the protests of Mr. Malhotra the election candidate. Bundles of votes of either candidates were counted in favour of returned candidate. The votes of Congress candidate were counted for the returned candidate. Bundles of votes of either candidate were neither properly made nor properly scrutinised." Certain figures of the rejected as well as accepted votes were given. The basis for arriving at those figures was not disclosed. The Supreme Court took the view that the petition did not disclose the material facts.

47. In order to determine the issue, with the help of the learned counsel for the parties, I have gone through the Election Petition as well as the Annexures and Form-20, certified copy of which was placed on record during the course of arguments.

48. At this stage, it is pertinent to mention that the learned counsel for the petitioner did not argue the point of setting aside the election for non-compliance with the provisions of the Constitution, the Rules, Orders and the Act, as envisaged by section 100(1)(d)(iv) of the Representation of People Act. The learned counsel on my specifically asking on what ground he seeks the setting aside of the election of the returned candidate, candidly conceded that he was not seriously and sanguinely pressing any other ground except the improper reception or improper rejection of valid votes.

49. Paras 1 to 5 are introductory in nature. Succinctly it has been stated in these paras that 7-Mahendergarh Parliamentary Constituency is comprised of 9-Haryana Vidhan Sabha Constituencies. The policy took place on November 22, 1989. Counting commenced on November 26, 1989 and the returned candidate was declared elected by a margin of 3510 votes and 12965 are the total rejected votes of the Parliamentary Constituency.

50. Paras 6, 7, 8, 9 and 10 relate to the postal ballots. It is stated that the Deputy Commissioner Mahendergarh was the Returning Officer and he undertook the counting of postal ballots in his office at Narnaul on November 26, 1989 at 11 a.m. It is averred that 2514 postal ballots were received by the Returning Officer and 1029 out of them were rejected. It is stated that out of 1485 valid postal ballots the petitioner secured 745 votes and the returned candidate secured 605 votes. The remaining were secured by other candidates. It would be relevant to reproduce the plea raised in its terms which runs as under :

"According to the reports given by the Counting Agents of the petitioner who was present at the time of counting of the postal ballots by the Returning Officer, in most of the rejected postal ballots the votes have been cast in favour of the petitioner. The Returning Officer rejected these postal ballots on the spacious ground that secrecy of voting had not been maintained."

51. In para 9, it is averred that the grounds on which postal ballots can be rejected are given in Rule 54-A(B) of the Conduct of Election Rules, 1961 and on none of the grounds given in these Rules, these postal ballots could be rejected by the Returning Officer. It is averred that the postal ballots were rejected on the specious ground of secrecy of ballot having been violated.

52. The learned counsel for the respondent contended that these Paras do not disclose any cause of action. No ballot number of the alleged illegal rejected votes, has been disclosed; nor segment member or the Assembly constituency to which the rejected votes related, has been disclosed. There is no allegation that the petitioner or his Counting Agents were deprived of an opportunity of inspection of the rejected ballot papers by the Returning Officer in terms of the Rules and instructions, as referred to above, which categorically make it incumbent on the Returning Officer to grant an opportunity to the Counting Agents to note the ballot paper number. The learned counsel contended that no reason has been disclosed for inferring that must of the rejected votes were cast in favour of the petitioner. Even the name of the Counting Agent or the person informing has not been disclosed in the petition.

53. In order to support the contentions, the learned counsel for the respondent relied on *Hardwari Lal v. Kanwal Singh*, A.I.R. 1972 S.C. 515, *Smt Sumitra Devi v. Shri Sheo Shanker Prasad Yadav and others*, A.I.R. 1973 S.C. 215, *Samant N. Ballakrishna etc. v. George Fernandez and others*, A.I.R. 1969 S.C. 1201, *Charan Lal Sahu v. Giani Zail Singh and another etc. etc.*, A.I.R. 1984 S.C. 309 and *Bhagwati Prasad Dixit 'Ghorewala' v. Rajeev Gandhi*, A.I.R. 1986 S.C. 1534.

54. The learned counsel for the respondent referred to the provisions of sections 19, 21, 22, 23, 24, 40, 47, 49, 51, 52, 64, 66 and Rules 54-A, 56(3), 63 and 64. It was further contended that the petitioner has failed to disclose the consequences or the effect of the illegality in rejection of the votes, apart from the fact that no illegality in the rejection of the votes has been pointed out. Even the alleged spacious ground for rejection of the postal ballots is squarely covered by Rule 54-A, which specifies the grounds for rejection of the votes. It envisages that the ballot paper where the secrecy of the ballot is violated, is liable to be rejected. There is no allegation of violation of any procedure or that provisions of any law have been violated, nor any complaint was alleged to have been made to the Returning Officer with respect to the assumed illegal rejection of invalid votes.

55. The learned counsel for the petitioner controverted the submissions and contended that the petition does disclose cause of action as envisaged by Order VII, rule 11. The difference of votes between the returned candidate and the petitioner is only 3510 and rejected votes are four times the difference of votes. He referred to the Dictionary

meaning by referring to the Oxford Concise Dictionary that vast majority of the rejected votes means more than 6000 votes of the rejected votes numbering 12969, Rejection of the 1029 postal ballots on the ground that the secrecy of voting was not maintained, is wrong. First of all, no secrecy has been violated and secondly no reasoned order was passed. Court has been left to speculate how the secrecy has been violated.

56. It was urged that paras 27 and 28 of the Election petition along with paras 30 and 31 have to be read along with every para of the petition. The learned counsel read out paras 27, 28, 30 and 31. It would be expedient to succinctly refer to what has been stated in paras 27, 28, 30 and 31, para 27 states that certain ballot papers which were thumb marked or because of the thumbs being smeared with ink left some impression on the ballot papers, the Supervisors illegally rejected such votes which have been cast in favour of the petitioner and had accepted in case of the respondent. This was a reason for high percentage of rejection of valid votes.

57. It was further averred that the Supervisors made two sorts of bundles, one of the outright rejected votes and the second of votes of doubtful nature which were likely to be rejected or were rejectable. The Assistant Returning Officers only scrutinised later bundles which had votes of doubtful nature and did not apply their mind to votes contained in the other bundles. It is averred that the Assistant Returning Officers did not apply mind and did not scrutinise the bundles or votes but merely put their initials and seal in a mechanical manner. Resultantly, many votes have been rejected without exercising the power to reject by the Returning Officer. A very large number of rejected votes is due to non-application of mind.

58. In para 28, the petitioner stated that on certain polling booths, there were two types of stamps, one was to be fixed by the Presiding Officer at the back of the ballot papers and the other was the instrument provided for marking the vote for voting for the persons for whom they wanted to vote. The Presiding Officers instead of giving the instrument for marking the vote for voting had given the seal which they were required to put on the back of the ballot paper. (Thus, rejection of the ballot papers on the ground that they did not bear the prescribed seal for voting is illegal. It was averred that this had happened in most of the cases in which the votes were cast in favour of the petitioner.

59. Para 31 is being reproduced as it is required to be referred again and again, while dealing with the contentions as well as it was alleged to have formed the basis of the second ingredient of section 100(1)(d)(iii). It runs as under :

"That the result of election in 7-Mahendergarh Parliamentary Lok Sabha Constituency insofar as it relates to returned candidate has been materially affected by improper rejection of valid votes and by improper

reception of invalid votes. It has also been materially affected by non-compliance with the "provisions of Representation of People Act and the Conduct of Election Rules, 1961. Hence the election of the returned candidate-respondent No. 1 is liable to be declared valid."

60. Para 32 states "that in fact the petitioner received a majority of valid votes. Hence after declaring the election of the returned candidate to be void, the petitioner be declared duly elected from the Constituency.

61. The learned counsel for the petitioner further contended that separate application has to be made for seeking the permission to inspect the ballot papers in which necessary facts may be stated. In fact, the facts have been stated. The contention made by the counsel for the respondent is a question of proof of the facts stated or the illegalities committed and in the judgements cited, it is only after the recording of evidence that the petition was rejected on the ground that no case was made out for recounting.

62. It was contended that from the facts stated an inference which can possibly be drawn is that the petitioner has a majority of valid votes. Thus the result has inevitably been materially affected. Not only this, these are the considerations which would be taken into consideration at the time of counting. The learned counsel for the respondents referred to the observations made in Jitendra Bahadur Sing's case (supra).

63. It was contended that Bhagwati Prasad Dixit 'Ghorewala' case (supra) is distinguishable on facts. It was a question relating to citizenship and the Court held that no jurisdiction could be exercised in the proceedings in an election petition to determine the same. Similarly, it was urged that Charan Lal Sahu's case (supra) is not attracted to the facts of the present case, as it related to the election of the President and is not a judgment under the Representation of People Act. Entirely different question were raised which have been met.

64. So far as Samant N. Balakrishna etc.'s case (supra) is concerned, the learned counsel urged that it was a case with respect to corrupt practice which is required to be proved like a criminal charge, while the question of recounting of votes has to be determined on preponderance of probabilities. Thus, the judgment is not relevant to the case in hand.

65. So far as Udhav Singh's case (supra) is concerned, it is again a case relating to corrupt practice, wherein particulars of the corrupt practice are required to be stated. No such thing is required to be stated in case of a claim for recounting. Same distinction has been attempted with respect to Smt. Sumitra Devi's case (supra) and Dharti-pakar Madan Lal Agarwal's case (supra).

66. I am of the considered view that the averments made in paras 7, 8 and 9 do not disclose any



material facts which can possibly raise a triable issue. Marshalling the averments made in these paras, the only thing which appears to be discernible is that there were 1029 postal ballots which have been rejected to which the petitioner attributes the ground of rejection as the violation of secrecy of votes. All the valid votes have been rejected on this ground. It was again stated that most of the rejected votes were polled in favour of the petitioner. I find the allegation to be nebulous state of pleading. The petitioner much less being precise in his averments is obscure and oscillated. No definite averment has been made, as to how many rejected votes which have been polled in his favour are in fact valid. The petitioner obliquely admits that some of the votes rejected have been validly rejected but failed to spell out their number. The petitioner submits that hanky-panky has been done with counting. It would be travesty of justice if the petitioner is permitted to throw such a wide net and lead evidence as conveniently available to him to fish out un-known illegality or irregularity. The remission of such a course being adopted would be that sacred and one of the fundamental objects of secrecy of votes shall be violated with impunity. There is no allegation that the Returning Officer was in any way biased. This attempt of the petitioner to chance a freak accident of fate to have an opportunity of recounting cannot be sustained. The averments have been made in reckless disregard of the provisions of section 83. There is a notable degree of difference to the issue. The averments lack coherence and system of values and were against the normal course of human conduct. The pleadings are destitute of material facts inasmuch as they neither disclose the ballot paper number nor the segment nor the Assembly Constituency relating to which postal ballots have been rejected. They do not disclose the numerical number of postal ballots which have been cast in favour of the petitioner and alleged to have been rejected on the spurious ground of secrecy of votes having been violated. Nothing with respect to the returned candidate has been stated.

67. It was observed by the Supreme Court in *Km. Shradha Devi v. Krishna Chandra Pant and others*, A.I.R. 1982 S.C. 1569 that it was incumbent on the petitioner to find out the entire circumstances in which the Election Commission passed the order. Non-disclosure of facts to show the order was bad and how there was non-compliance of the provisions of the Constitution and the Act, would not constitute a plea of non-compliance. Undisputedly for rejection of the votes, grounds for rejection have been provided by Rule 54-A. In order to save the time, the Election Commission had issued instructions and enjoined on the Returning Officer that he should endorse on every ballot paper which he rejected the grounds for such rejection either in the hands of the Returning Officer or by means of a Rubber Stamp to be affixed. The Returning Officer is required to initial the endorsement. Facsimile of the Rubber Stamp has been provided. It runs as under :

"Rejected. (I) No marking. (II) Mark at blank area, (III) Multiple voting (IV) Voter

identifiable. (V) Mutilated (VI) Not genuine."

The Returning Officer is supposed to tick-mark the ground of rejection only and affix the tick-mark against the ground. It further provides that before a ballot paper is finally rejected, reasonable opportunity to inspect it, has to be granted to the candidate or his Counting Agent present. An opportunity for noting the serial number of the ballot paper where it is of doubtful validity and reason for wrong rejection has to be granted. Of course, the power has been conferred on the Returning Officer to reject any unreasonable demand in this regard. No doubt physical handling of the ballot paper is not permissible.

68. The facts in the above stated paras do not spell out the reason of the order for rejection, nor it spells out how that reason is not sustainable in the eye of law. The petitioner had not even stated that he or his Counting Agents ever made any demand for inspection of the rejected ballot papers or for noting down their number and the Returning Officer declined it, or the Returning Officer did not comply with the instructions, rules or regulations or the provisions of the Act in counting and rejecting the ballot papers. The petitioner made a complaint Copy, Annexure P[11] which can validly be treated as part of the pleadings, as it had been referred to in the pleadings and is attached as Annexure with that petition. It only stated that the total number of rejected votes is much higher than the margin of difference between the main contestants. Therefore, the recounting of Ateli Constituency may kindly be ordered. There is not even a remotest reference to any illegal rejection of the postal ballots much less on any spacious grounds. These are the general allegations. No notice of such allegations can be taken. The allegations are nebulous and bereft of material facts. No grounds for recount have been disclosed.

69. Paras 7, 8 and 9 read with Paras 31 and 32 reproduced above do not show any connection between the result of the returned candidate being materially affected by the assumed invalid rejection of the valid votes, even remotely much less demonstrably. Para 31 does not disclose any fact much less a material fact except the reproduction of the language of the statutory provisions which undisputably cannot be treated as pleadings. Otherwise also, the petitioner also understood the para as an averment of law as would be obvious from reading of verification, wherein Paras 30 and 31 have been verified to be a question of law or submissions of law made as advised.

70. In my considered view, Paras 7, 8 and 9 do not disclose any cause of action because of the absence of material facts with respect to the assumed illegal rejection of the postal ballot paper it does not disclose any connection with the assumed improper rejection of the votes so far as it concerns the returned candidate's result being materially affected nor it even remotely avers that it has materially affected the result. This is not a question of inference with respect to material effect on the result so far as the re-

turned candidate is concerned, it is not a question of law, it is a material fact which has to be averred and proved as any other fact. I further find support for my above findings from the observations in Jitendra Bahadur Singh's case (supra), which are to the following effect :

"The basic requirements to be satisfied before an election tribunal can permit the inspection of ballot papers, are (1) that the petition for setting aside the election must contain an adequate statement of the material facts on which the petitioner relies in support of his case and (2) the tribunal must be prima facie satisfied that in order to decide the dispute and to do complete justice between the parties, inspection of the ballot papers is necessary. The material facts required to be stated are those facts which can be considered as materials supporting the allegations made. "In other words they must be such facts as to afford a basis for the allegations made in the petition. If an election petitioner in his election petition gives some figures as to the rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of material facts when the petitioner has not disclosed in the petition the basis on which he arrived at those figures. His bald assertion that he got those figures from the counting agents of the unsuccessful candidate can not afford the necessary basis."

71. It may be specifically noted that the Supreme Court observed that if an election-petitioner in an Election Petition gives some figure as acceptance of invalid votes, the same cannot be considered as adequate statement of material facts unless the petitioner disclosed in the petition the basis on which he arrived at those figures. A bald assertion that he got from the counting agents of the unsuccessful candidates, cannot afford necessary basis, whereas in this case even this assertion is lacking. No figures have been disclosed from which it could be concluded that the result has been materially affected so far as the returned candidate is concerned. No facts with respect to material effect have been pleaded.

72. Paras 10 and 11 are again introductory in nature inasmuch as it has only been stated in Para 10 that the petitioner had received serious complaints about the illegalities having been committed by the counting staff in the process of counting to the detriment of the petitioner had to the advantage of respondent in six of the segments out of 9 segments and it further stated that the counting staff consisted of the employees of the Haryana Government which was of Janta Dal. It is beyond doubt that they do not disclose any cause of action either in themselves or when read with other paras of the petition.

73. Succinctly the averment made in para 12 is to the effect that the petitioner appointed 14 Counting Agents and one at the Centre Table to sit with the Assistant Returning Officer. The 14 Counting Agents required to sit on the 14 counting tables

some practice that was earlier being followed. Depriving the Counting Agent of the pencil and paper on the 14 counting tables is not warranted by any specific rules or instructions. This act of the Assistant Returning Officer has deprived the petitioner from giving the specific instances with respect to the illegalities committed by the counting staff as well as the number of ballot papers. It further reproduces what according to the petitioner used to happen on the previous occasion and an attempt has been made to establish the procedure or methodology of counting by practice bereft of any support from any rules, regulations or the instructions. It is the assumption of the petitioner as to what should be permissible. It cannot be disputed that not following any practice being followed on some previous occasions will not give a cause of action for setting aside the election. The election can only be set aside on the ground given under section 100 of the Act. There is no ground pointed out by the learned counsel for the parties particularly counsel for the petitioner to whom I repeatedly asked to point out any ground under section 100 where non-following of any practice evolved by the Assistant Returning Officer at some point of time amounts to a ground for setting aside the election of a returned candidate.

74. I have been repeatedly taken through the entire Election Petition. At no part of the petition it has been stated that the Assistant Returning Officer has declined the request of the Counting Agents of the petitioner sitting on the table for inspection of the ballot papers rejected or accepted or deprived them of any of their rights conferred by the rules, regulations, instructions. There is no gainsaying that the rejection or acceptance of a ballot paper has been alleged to have been either by the Assistant Returning Officer or Assistant Returning Officer. No ballot paper has been alleged to have been either rejected or accepted by the Supervisor in the course of arguments. They have only sorted out the ballot papers liable to be rejected and took them to the Returning Officer who rejected or accepted the same in accordance with the procedure i.e. after giving a proper opportunity to the Counting Agents, rejected the ballot papers, put a Rubber Stamp, reproduced in the earlier part of the judgment and tick-marked the ground for rejection. The petitioner produced the object or providing pencil and papers to the Counting Agents on the counting table but nowhere in the petition it is averred that any Supervisor has tampered with Form-16, Part II or any other Form or Document or the votes handed over by him to the Assistant Returning Officer who after rejecting the invalid votes counted the valid votes in favour of the petitioner and respondents.

75. There is not a single averment in the entire Election Petition that the counting procedure has not been followed by the Assistant Returning Officer or the Returning Officer. It is nowhere averred that the Counting Agents were ever denied any request much less a reasonable request from noting down the number of illegally rejected or improperly accepted votes. Reading of the petition, as well as Annexures makes it obvious that averments were



made at random pointing out the table number and round number and averring that the Counting Supervisor is cancelling the votes of the petitioner Col. Ram Singh illegally and they are indulging in malpractices without specifying what those malpractices were. In view of the undisputed facts as averred by the petitioner in the petition that the invalid votes were rejected by the Assistant Returning Officer or accepted by him I have not been able to understand how the averment made that the Counting Supervisors were illegally rejecting votes polled in favour of the petitioner is a material fact and has materially affected the result of the election so far as the returned candidate is concerned.

76. In view of the observations made above, except the general allegations, para 12 does not disclose any material fact. The averment is nothing else but a figment of imagination of the petitioner particularly in view of the stand taken by the counsel for the petitioner that he is not challenging the election on the ground of section 100(1)(d)(iv) i.e. on account of the election of the returned candidate being materially affected by violation of the provisions of Constitution, rules, regulations and the Act.

77. Para 13 has only stated that unauthorised person viz. Bilas Ram Sharma a Minister entered the counting hall along with 3/4 persons in the 88-Mahendergarh Constituency segment. Nothing beyond has been stated. I do not find any cause in it, for setting aside the election on those allegations either independently or read with other paras of the petition. No material effect has been pleaded on the result of the returned candidate on account of the entry of Ram Bilas Sharma in a counting hall of one of the nine segments of the Constituency.

78. In Para 14, it is averred that Ram Kumar Yadav a Counting Agent in Pitaudi Segment complained to the Assistant Returning Officer that Counting Supervisor was illegally rejecting the votes polled in favour of the petitioner in Round No. 2, one of the bundles of 50 votes in favour of the petitioner was placed in the bundles of votes polled in favour of respondent No. 1 which was later correctly placed on being pointed out by him. It was further urged that the Counting Supervisor did not allow him to remonstrate against the illegalities committed by him without pointing out any illegalities. In my considered view, material facts have not been disclosed, no facts with respect to ballot paper number alleged to have been rejected by the Assistant Returning Officer or Supervisor or booth number, the name of the polling station has been stated.

79. The averment only makes out that a complaint was made that the Counting Supervisor has illegally rejected votes of the petitioner in Round No. 2 and one bundle of 50 votes was wrongly placed in the bundles of the respondent which was placed at a right place later. It does not disclose even the numerical number of votes illegally rejected which were cast in favour of the petitioner. The only sense it makes is that it makes no sense. A bare look on the averment made shows that it does not disclose any cause of action much less satisfying the requirement of section 100 as spelled out above particularly when it is not disputed in the course

of arguments that, in fact, the votes were rejected not by the Supervisor but by the Assistant Returning Officer. The rejection of the votes by the Supervisor is of no consequence as the rejected votes are scrutinised by the Assistant Returning Officer before rejection. There is no allegation that this procedure was not followed. Thus, Para 14 is liable to be struck off.

80. The scenario which emerges from reading of Paras 15 to 26 is that the Election Agent and the Counting Agents complained to the Assistant Returning Officer at Table No. 2 in Pitaudi Segment in 4th round, in Jatusana Segment at Table No. 8, 7th round, Table No. 4, 6th round, Table No. 10, 5th round, in Bawal Segment at Table No. 4, 6th round, Table No. 4, 6th round, in Mahendergarh Segment, Table No. 8, in Itali Segment at Table No. 10, 5th round, in Narnaul Segment at Table No. 2 that the Supervisors were illegally rejecting the valid votes of the petitioner and accepting the invalid votes of the returned candidate and were committing illegalities in the counting of votes, counting 55 votes in the bundle of the petitioner as 50 and 45 votes in the bundle of the returned candidate as 50, making wrong bundles putting a bundle of 50 votes of Col. Ram Singh into the bundle of Rao Birender Singh and counting the bundle in the votes of Rao Birender Singh; certain invalid votes were being illegally accepted and complaints were made with respect to the wrong bundling i.e. 45 votes were being counted as 50 in case of returned candidate and 55 votes as 50 in case of the petitioner, 30 to 40 valid votes of the petitioner were illegally rejected and 40 to 50 invalid votes of the returned candidate were illegally accepted, and one bundle of the petitioner had been counted into the bundle of the returned candidate. Again, there was wrong bundling, i.e. 55 votes were put into the bundle of 50 in the case of the petitioner and 45 votes instead of 50 votes in the case of the returned candidate and there were wide spread illegalities and illegal rejection and acceptance and one bundle of votes was mixed up with those of the returned candidate. Two bundles of the petitioner were mixed up with the votes of the returned candidate and illegally accepted the rejectable votes. The counting was being done improperly, valid votes for Col. Ram Singh were illegally rejected and rejectable votes of the petitioner were being illegally accepted; 30 to 40 valid votes in favour of the petitioner had been wrongly and illegally rejected while 40 to 50 invalid votes in favour of Rao Birender Singh have been illegally and wrongly accepted. Counting staff was wrongly rejecting the valid votes and accepting the invalid votes and excess votes were being placed into the bundle of Col. Ram Singh and less votes were being placed into the bundle of Rao Birender Singh. The above averments of making complaints were made in the respective Paras, 15 to 26 in sedatim, as reproduced above.

81. In my considered view, making of complaints is neither a ground for setting aside the election nor is a material fact. Even if it is assumed to be a material fact, it does not disclose the ballot

number or booth number or polling station number, which is a material fact. The averments in the pleadings do not disclose the ground of rejection of the ballot paper and the facts now the rejection or acceptance is invalid. No facts have been disclosed to come to a conclusion that the ground of rejection or acceptance is invalid or illegal. In what manner the order of rejection is bad, in what respect there is a non-compliance of the Act, Rules and Instructions; facts are lacking in this Election Petition. No ground for demanding the recount has either been disclosed in the petition or in the application, Annexure P/11, alleged to have been made to the Returning Officer. No facts have been given from which a conclusion or inference can be drawn with respect to the result having been materially affected no connection has been pleaded with the complaints made or the complaints with respect to the material effect on the election so far as the returned candidate is concerned. No figures have been given to demonstrate how there has been material effect on the result of the election of the returned candidate or how the figures have been arrived at. A sweeping nebulous averment has been made that the votes of the petitioner are being illegally rejected and those of the respondent being accepted. What are the facts for coming to such a conclusion have neither been pleaded, nor disclosed. Having admitted that the doubtful votes or rejectable votes were being rejected by the Assistant Returning Officer or the Returning Officer at whose table the Counting Agent of the petitioner has not made any complaint nor it has been averred that any demand of theirs with respect to noting down material facts or the particulars with respect to the objection regarding order of rejection or the ground of illegality of the rejection, was not allowed to be noted. Nothing has been stated who accepted the invalid votes of Rao Birender Singh illegally, what was the illegality and wrong in accepting the votes. No facts have been disclosed to come to a conclusion that certain figures i.e. 40 to 50 or 30 to 40 invalid votes were being accepted as valid and valid votes being rejected as invalid votes. Even totalling the votes wrongly rejecting and accepting, does not materially affect the result of the election so far as the returned candidate is concerned. It has nowhere been demonstrated even remotely how the result of the returned candidate has been materially affected in view of the complaints made. The general sweeping averments do not spell out any cause of action. Mere use of the words 'improperly rejected, illegally-wrongly accepted, there was wrong bundling' are merely apogee of material facts and do not disclose material facts for inferring any irregularity in the counting. It has not been disputed in the course of arguments, even otherwise in the petition, that the Assistant Returning Officer or the Returning Officer had not performed their part of obligation or any Counting Agent on his table had ever raised any objection with respect to any error, rejection of votes or acceptance of votes or bundling or counting of wrong bundles which was finally done at the table of the Returning Officer. The pleas raised are destitute of any material facts and raise no triable issue. No specific impropriety or illegality in the counting has been pointed out worth noticing. By making a sweeping and general allegation, the petitioner cannot be permitted to have fishing and roving

ing enquiry and have a right to violate the secrecy on the basis of indefinite, imaginary averments made.

(82) In para 27, the petitioner stated that the ballot papers having been smeared in ink mark have been wrongly rejected in case of votes cast in favour of the petitioner but some votes have been accepted in case of the returned candidate and this was the cause of the high rejection of valid votes of the petitioner. In my considered view, no notice of such a plea can be taken. It is totally a sweeping, nebulous plea benefit of facts which does not disclose any cause of action. It does not disclose in which segment of the nine Constituencies forming part of the Parliamentary Constituency it has happened. The allegation of rejection has been made against the Supervisor. It is not disputed that it is not the Supervisor who rejects the invalid votes. It is the Assistant Returning Officer who rejects the invalid votes. This shows the hollowness of the imaginary plea. The number of such votes has not been disclosed from which it can be demonstrably inferred that the result has been materially affected so far as the returned candidate is concerned. The plea has been kept as vague as anything. The plea does not raise any triable issue. It has been specifically observed by the Supreme Court in Jitendra Bahadur Singh's case (supra) that "about 5000 votes of Congress candidate are improperly rejected ignoring the protests of Mr. Malhotra, election agent of the Congress nominee amounts to no plea and does not show any cause of action." The law laid down by the Supreme Court is binding on us. No contrary view has been pointed out. The story appears to be a make-believe affair. Keeping back all the material facts cannot cure the lacuna of withholding the information from the returned candidate who has to meet the case. The only proper prospective view from which the plea can be considered is that there is nothing else in the petition except the petitioner making a roving and fishing enquiry in order to satisfy his sense of taking freak chances of victory ignoring the remembrance of violation of secrecy of ballots which is one of the prime importance attached by the legislature in the statutes. The petitioner has not even attempted to dwell on facts and has not even cared to disclose the facts. Pleas as disclosed in the judgment in various paras would show that they are ambivalent of each other.

(83) The petitioner further averred that the Supervisors made two types of bundles, one was bundle of clearly rejectable votes and the other was of the type whose rejection in the opinion of the counting staff was doubtful and disputed. It was stated that the Assistant Returning Officer passed orders after applying mind to the votes contained in the bundles of doubtful and disputed rejectable votes, while on others he merely put stamp and initialled in mechanical manner. Thus, many votes have been rejected without the exercise of power to reject by the Assistant Returning Officer and there is a large number of rejection of votes on account of this to the extent of 12965 votes which is the total number of rejected votes which bears very negligible percentage to the total number of votes polled and included the rejected votes polled

in favour of returned candidate also. At the cost of repetition, these facts do not constitute the material facts giving a cause of action to the petitioner. It is a sweeping allegation, neither booth number, nor segment, nor the name of the Assistant Returning Officer, nor the polling station number nor ballot number has been disclosed. The only inference which the petitioner has drawn is that because of this reason assumed by the petitioner large number of votes have been rejected. He even did not disclose how many of such votes were there in 12965 votes and how many of these were his. When the Assistant Returning Officer had put his stamp of rejection and tick-marked the ground of rejection as it had not been averred that it was not so done, the presumption is that it was done in accordance with law. It would be far-fetched to assume that the Assistant Returning Officer had not applied his mind. Apart from this, the petitioner has failed to disclose the consequences of such an irregularity so far as the result of the returned candidate is concerned. No averment has been made that on ground of the alleged error, the result has been materially affected and all the rejected votes or most of the rejected votes are of the petitioner alone. The averments made earlier are destructive of the pleas raised herein. No doubt that the alternate pleas can be raised, but no law has been pointed out that the pleas destructive of each other can be taken. Here, the petitioner has categorically admitted that it is the Assistant Returning Officer who had rejected or accepted the votes but from Paras 7 to 27 the petitioner averred that the complaints were made that the Supervisors rejected the votes. I fail to comprehend how both the pleas can survive together.

(84) In Para 28, the petitioner has succinctly pleaded that the votes on which the mark has been placed by an instrument not meant for marking the votes have been rejected, though the wrong instrument was provided by the Presiding Officer. Thus, the impression of other different stamp, though meant for marking the ballot papers of the votes has been wrongly rejected by the Assistant Returning Officer as invalid. Apart from reasons stated in Para 28, the plea is again nebulous and does not disclose any cause of action. Even assuming to be correct, it has been observed in *N.E. Horo v. Leander Tiru* and others, (1989) 4 Supreme Court Cases 364, that ballot papers on scrutiny found to contain no prescribed mark namely, arrow or cross, could not be retained in spite of absence of allegations in the pleadings, it is no bar to inspect such papers. When illegality is noticed, it must be corrected. Rule 39(2) makes it clear that if mark is made of an instrument otherwise than the one provided for the purpose such ballot papers are to be rejected. No factual foundation for inspection has been laid by the petitioner. Even admitting the allegation to be correct, rejection of the ballot papers by the Assistant Returning Officer marked with a different stamp than with the arrow/cross stamp meant for marking the ballot papers for the candidate of his choice are liable to be rejected in view of the mandatory provisions of Rule 39(2)(b) and the instructions to the Presiding Officer. Thus, Para 28 discloses no cause of action.

(85) The only allegation averred in para 29 is to the effect that the authorities concerned have done the counting in a haphazard and negligent manner and the total votes in Form-20 vertically and horizontally, have been recorded incorrectly. Even nine errors in totalling have been pointed out. In order to determine the allegation certified copy of Form-20 has been placed on the record. It has been exhibited as p 1 to p 9, though the respondent objected to the placing of the same on record. The respondent did not specify his objection for placing of the certified copy of Form-20 on record. Consequently, I allow the placing of certified copy of Form-20 on the record. In marshalling the plea raised, it would be advantageous to refer to the mistakes pointed out.

(86) In 60-Gurgaon Segment, the petitioner has pointed out that there is a discrepancy of 50 votes in the column of total number of votes secured. In order to determine the same, he has referred to Exhibit p 2. I have scanned through the certified copy of Form-20 of 60-Gurgaon Assembly Segment with the help of the counsel. I find no discrepancy in it. There is no averment that there is any error in tabulating the number of valid votes received by the returned candidate or the petitioner. There is no averment that there is any error in totalling the valid votes received, or the votes tendered. Nothing has been pointed out demonstrably how there is a difference of 50 votes in total number of votes received in Form-20. Even in the petition, there is no allegation that the petitioner received any complaints of illegalities alleged to have been committed with respect to 60-Gurgaon Segment. Even if there is any clerical error in totalling that would not in either way materially affect the result of the returned candidate much less the result of the election. There is no averment that 50 votes were, in fact, the votes of the petitioner which find mention in the total and otherwise have not been counted. The averment is nebulous on the face of it, false and frivolous and has been made regardless of any responsibility.

(87) Same is the position with respect to 62-Pitaudi Segment wherein it has been averred that there is difference in total of 86 votes and the total number of votes polled. The averment is liable to be rejected on the same ground as in case of 61-Gurgaon Segment except that averments of irregular counting were made with respect to this Segment like improper rejection and acceptance of votes, though there is no averment made that Form-20 has been filled in an imaginary manner or contrary to the facts at the spot of the number of valid votes received by the respective candidates have been wrongly shown in Form-20 or there is any error in them. In the absence of such a plea, mere discrepancy or clerical error in totalling the number of votes polled cannot be taken notice of for setting aside the election particularly when there is no averment that those votes are of the petitioner or they materially affected the result of the election so far as the returned candidate is concerned.

(88) It was pointed out with respect to Booth No. 60 in Rawal Segment that total number of valid votes i.e. 543 and number of rejected ballot papers are four,

out in total number of votes it has been shown 557. There is no allegation that the valid votes polled in favour of the returned candidate or the petitioner have been wrongly tabulated. In my considered view, either it is clerical error on the face of it or since the number of tendered votes has not been shown, it included the tendered votes also. Otherwise also, since the petitioner has not claimed any of these votes to himself, it does not materially affect the result of the election so far as the returned candidate is concerned. In such a situation, no notice can be taken of the averments.

(89) Even on a bare reading of the entry in the column of total number of valid votes received, the clerical error is apparent that the authority concerned while totalling first wrote 556, then while wanting to correct it probably by some error instead of putting '6' in place of figure '5', has placed figure '7' resulting in total number of votes polled, being described as 762. It is on the face of it a clerical error particularly when the total made against the column of the total number of valid votes received on the sheet is correct and no averment has been made that there is any error in total number of valid votes received calculated horizontally.

(90) There is no doubt that there is a difference of 100 valid votes received by the returned candidate and 100 more votes have been shown to have been received by him. Other mistakes in counting the votes horizontally are clerical errors on the face of it. Even reducing 100 votes from the votes received by the returned candidate (having been wrongly shown to have been received more) will not materially affect the result of the returned candidate particularly in view of the reasons stated above while dealing with the errors in totalling with respect to Gurgaon and Pitaudi Constituencies.

(91) The petitioner has pointed out that there is a discrepancy of 487 votes in the column of total number of votes secured. In order to determine the same, he has referred to Exhibit P2, I have scanned through the certified copy of Form-20 of 60-Gurgaon Assembly Segment with the help of the counsel, I find no discrepancy in it. There is no averment that there is any error in tabulating the number of valid votes received by the returned candidate or the petitioner. There is no averment that there is any error of total of the valid votes received or the votes tendered. Nothing has been pointed out demonstrably how there is a difference of 487 votes in total number of votes received in Form-20. Even in the petition, there is no allegation that the petitioner received any complaints of illegalities alleged to have been committed with respect to 61-Gurgaon Segment. Even if there is any clerical error in totalling that would not in either way materially affect the result of the returned candidate much less the result of the election. There is no averment that 50 votes were, in fact, the votes of the petitioner which find mention in the total and otherwise have not been counted. The averment is nebulous on the face of it, false and frivolous and has been made regardless of any responsibility.

(92) In 87-Jatusana, the discrepancy has been pointed out in totalling the votes polled in

No. 23. There is no averment or the allegation that the valid votes polled have been wrongly tabulated. Same is the position with respect to Booth Nos. 30 and 31. When there is no difference in the receipt of the total number of valid votes either by the petitioner or the respondent, mere clerical discrepancy in totalling the number of votes polled is of no consequence. I fail to understand how these errors in totalling the number of votes either horizontally or vertically materially affected the result of the election so far as the returned candidate is concerned, unless and until the irregularity or illegality, if any at all, can lead to an inference that the result of the returned candidate has been materially affected, the illegality, irregularity committed in counting or totalling the total number of votes polled is of no consequence and cannot be judicially taken note of and the election cannot be set at naught on account of triflings and human clerical error.

(93) In 88-Mahendergarh Segment, the discrepancy has been pointed out in totalling the votes polled in Booth Nos. 91 and 92. There is no averment or the allegation that the valid votes polled have been wrongly tabulated. Same is the position with respect to Booth Nos. 23 and 34. When there is no difference in the receipt of the total number of valid votes either by the petitioner or the respondent, mere clerical discrepancy in totalling the number of votes polled is of no consequence. I fail to understand how these errors in totalling the number of votes either horizontally or vertically materially affected the result of the election so far as the returned candidate is concerned, unless and until the irregularity or illegality, if any at all, can lead to an inference that the result of the returned candidate has been materially affected, the illegality, irregularity committed in counting is of no consequence and cannot be judicially taken note of and the election cannot be set at naught on account of triflings and human clerical error.

(94) Same are the averments with respect to 89-Asteli Segment, and 90-Narnaul Segment. No note can be taken of such a plea as observed above, Plea is to be struck off for the reasons recorded in the above paras while dealing with the averments relating to 88-Mehendergarh Segment and Booth Nos. 91 and 92.

(95) There is no averment in the petition with respect to the irregular counting or any illegality committed in the counting with respect to 60-Sohna Segment, 61-Gurgaon Segment and 86-Rewari Segment, though in this para the discrepancy in the totalling has been pointed out. In the course of arguments, it was pointed out that total number of votes received by Rao Birender Singh have been shown to be less which on the face of it appears to be a clerical mistake. Apart from this, even taking the total errors pointed out the total number of votes do not materially affect the result of the election of the returned candidate even notionally though the petitioner has not claimed that these were the votes of the petitioner but have been counted for the respondent and it has materially affected the election of the returned candidate, so no notice can be taken of clerical errors in totalling the votes.

(96) On reading of the entire petition, I find nowhere a reference that any irregularity in totalling of the votes in Form-20 either horizontally or vertically has materially affected the result of the returned candidate. At the cost of repetition, it may be observed that the counsel for the petitioner has conceded that he is not pressing for setting aside the election on account of non-compliance with the provisions of Representation of People Act and the Conduct of Election Rules.

(97) The only thrust of the arguments of the learned counsel for the petitioner while concluding his arguments was to the effect that the petition can be rejected only where no cause of action is shown and cause of action is all those facts which entitled the petitioner to bring action to the Court. The ground for challenging the election of the returned candidate is squarely covered by section 100(1)(d) (iii), i.e. the result of the returned candidate is materially affected by improper reception of votes, rejection of votes and reception of void votes. The result has been materially affected cumulatively and independently. It was sanguinely urged that Paras 27, 28 and 30 are to be read with each Para of the petition. It was further urged that when it has been said in the petition in Para 32 that the petitioner had received majority of valid votes, it may be considered that the result has been inevitably materially affected so far as the returned candidate is concerned. Apart from this, all these considerations would come at the time of counting.

(98) Lastly, the learned counsel with all vehemence at his command, urged that the instances reproduced in the Election Petition are to show with respect to haphazard and casual counting done and the illegalities having been committed. It was urged that substantial material has been provided and the respondent would suffer no injustice if the recounting is ordered.

(99) In my considered view, marshalling the pleadings in the petition, the only averment made in Paras 7 to 9 is the rejection of postal ballots on account of spacious ground of violation of secrecy; (ii) that the Counting Agents on the 14 tables in the entire Parliamentary Constituency were deprived of pencil and papers. Thus, no specific facts can be given; (iii) it has been pleaded that either there was an illegal rejection of the valid votes of the petitioner or illegal acceptance of the invalid votes of the returned candidate; (iv) there is an error in bundling the valid votes to the effect that in the bundle of 50 votes of the petitioner there were 55 votes and in case of the respondent-returned candidate, the bundle of 50 votes contained only 45 votes.

(100) Even at the cost of repetition of some of the observations made earlier it can be emphasised that the only allegation in each Para made is that complaints were made by one or the other Counting Agent averring the above complaints in their complaints. Not even a single line has been written that these are the facts or the complaints are made on the basis of correct facts. Mere making of a complaint without there being an assertion that they are the facts is of

no consequence and cannot constitute the pleading which can be sent for trial. Making of complaints or their rejection by itself is no ground for setting aside the election as envisaged by section 100 of the Act. Even irregularity in rejection of complaints is of no consequence.

(101) So far as the second limb of the arguments is concerned, before the recounting can be ordered, the petitioner is required to show by his pleadings that because of the facts averred in the petition and prima facie proved that the result so far as the returned candidate is concerned, has been materially affected. There is no averment to that effect. The only averment made is reproduction of the provisions of the Act in Para 31 as reproduced earlier. On scanning the averment, it may be noticed that the petitioner has contended that the result has been materially affected by improper rejection of valid votes and by reception of void votes, there is no allegation not even an indication either expressly or impliedly with respect to the reception of void votes. There is no complaint of the receipt of void votes. No grounds or material facts have been laid down in the petition disclosing the improper reception of void votes or how the votes were void, which votes were void. The material effect alleged is only on account of improper rejection of valid votes and improper reception of void votes. It is not stated that mere improper rejection of valid votes would materially affect the result of the returned candidate in the absence of such averment in the petition does not disclose any cause of action. So far as the material effect for non-compliance with the provisions of the Representation of People Act, and the Conduct of Election Rules 1961 is concerned, the learned counsel's concession he already been recorded in the language he has stated in the Court and got re-affirmed. Mere stating that the petitioner has received a majority of valid votes and is entitled for being declared elected, is of no consequence. The epithets of non-compliance of Representation of People Act etc. without disclosing the act amounting to non-compliance of Act or Rules etc. does not grant an opportunity to respondent to defend himself. Otherwise also, the averment is nothing else but the reproduction of the statutory language of the provisions of the Act.

Issue No. 2

(102) So far as the verification is concerned, no defect worth noticing in the same has been pointed out. Even otherwise, defective verification or wrong verification cannot be treated fatal to the petition. What was the source of information or contradictory stand taken in the verification is not relevant for determining the validity of the verification. Thus, I decide this Issue against the respondent.

Issue No. 3

(103) Undisputably, the petition was filed on January 8, 1990. The learned counsel tendered in evidence Mark X, Y, Z, reading of which makes it obvious that the petition was filed on January 8, 1990 and re-filed on January 29, 1990. It was contended by the learned counsel for the petitioner that the petition was not taken back and re-filed and had remained in the custody of the High Court. It was contended that the petition filed on January 8, 1990

was the proper petition and the same cannot be dismissed as barred by time, The Court has to come to a conclusion what petition was filed on January 8, 1990. The notice has been issued by the High Court. It should be presumed that the proper petition was filed. The objections raised were not correct and they have only been removed in order to avoid conflict with the staff of the High Court. I find no force in the contention raised by the counsel for the petitioner. No such evidence has been produced on this Issue. Reading on Mark X, Y, Z makes it clear that the petition was filed on January 8, 1990, returned on January 18, 1990 and it was refiled on January 29, 1990. Though it was refiled within time allowed by High Court Rules and Orders, yet the statutory period for filing the Election Petition cannot be modified or enlarged by framing Rules

under High Court Rules and orders. Hence, the petition is barred by time as the same was refiled after removing the defect, even if there were no defects, refiled being beyond statutory period of limitation, it would be deemed to be barred by time.

(104) For the reasons recorded above, I find no force in this Election Petition. The same is dismissed with no order as to costs.

July 10, 1990.

Words : 23000

Cost : 57—50

Sd/-

M. S. LIBERHAN, Judge.

[No. 82/HN-HP/1/90]

RAM KISHAN, Under Secy.

नई दिल्ली, 3 जनवरी, 1991

आ.प्र. 5--लोक प्रतिनिधित्व अधिनियम, 1950 (1950 क 43) की धारा 13क क की उप-धारा (1) और (2) के अनुसरण में और तारीख 26 दिसम्बर, 1989 की अपनी अधिसूचना सं. 508/अनम/89 का अधिकरण करने हुए निर्वाचन आयोग राज्य सरकार के परामर्श में इसके आदेश :

(1) नीचे दी गई सारणी के स्तम्भ 1 में विनिर्दिष्ट असम राज्य में प्रत्येक जिले के लिये उसके स्तम्भ 2 में उसके सामने विनिर्दिष्ट अधिकारी या अधिकारियों को उस जिले के लिये जिला निर्वाचन अधिकारी के रूप में परामर्शित करना है और

(2) सारणी के स्तम्भ 3 में उस क्षेत्र को विनिर्दिष्ट करना है जिसके संबंध में ऐसा प्रत्येक अधिकारी अधिकारिता का प्रयोग करेगा।

सारणी

क्रम संख्या और जिला का नाम	जिला निर्वाचन अधिकारी का पदनाम	अधिकारिता का क्षेत्र
1	2	3
1. करीमगंज	उप-निर्वाचन आयुक्त करीमगंज	1. रतवाडी (प्र.जा.) 2. पाथरकण्डी 3. करीमगंज उत्तर 4. करीमगंज दक्षिण और 5. बरपुर विधान सभा निर्वाचन-क्षेत्र
2. हैलाकण्डी	उप-निर्वाचन आयुक्त हैलाकण्डी	6. हैलाकण्डी 7. कटलिचेरा और 8. भल्लापुर विधान सभा निर्वाचन क्षेत्र
3. कछार	उपायुक्त, कछार, मिल्बर्ग	9. मिल्बर्ग 10. मोनाई 11. घोलाई (प्र.जा.) 12. उधरबोण्ड 13. लखिपुर 14. धड़बोला और, 15. कटिगोरा विधान सभा निर्वाचन क्षेत्र
4. उत्तर कछार पहाड़ी जिला	उपायुक्त, उत्तर कछार हिल्स, हाफलोंग	16. हाफलोंग (प्र.ज.जा.) विधान सभा निर्वाचन-क्षेत्र
5. करबी संग्राम	(क) उपायुक्त, करबी संग्रामोड डिकू (ख) उप-प्रभागीय अधिकारी, त्रेमरेग	17. बोकाजन (प्र.ज.जा.) 18. होबरा घाट (प्र.ज.जा.) और 19. डिफ (प्र.ज.जा.) विधान सभा निर्वाचन-क्षेत्र 20. बैटालांगमो (प्र.ज.जा.) विधान सभा निर्वाचन-क्षेत्र

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6. धुश्री	(क) उपायुक्त, धुश्री	23. धुश्री 24. गौरीपुर और 25. गोलकगंज विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, शिवामिपारा	26. शिवामिपारा पश्चिम, 27. शिवामिपारा पूर्व विधान सभा निर्वाचन-क्षेत्र
	(ग) उप-प्रभागीय अधिकारी, दक्षिण साल्मारा मन्तछार	21. मन्तछार और 22. साल्मारा दक्षिण विधान सभा निर्वाचन-क्षेत्र
7. गोलपारा	उपायुक्त, गोलपारा	36. बूधनाई (अ. ज. जा.) 37. गोलपारा पूर्व 38. गोलपारा पश्चिम और 39. जलेश्वर विधान सभा निर्वाचन-क्षेत्र
8. बोंगईगांव	(क) उपायुक्त, बोंगईगांव	32. बोंगईगांव विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, जिनी	33. बिर्जा विधान सभा निर्वाचन-क्षेत्र
	(ग) उप-प्रभागीय अधिकारी, उत्तर साल्मारा अभयपुरी	34. अभयपुरी उत्तर और 35. अभयपुरी दक्षिण (अ. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
9. कोक्राझाड़ जिला	(क) उपायुक्त, कोक्राझाड़	30. कोक्राझाड़ पूर्व (अ. ज. जा.) और 31. मिडिया (अ. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, गौसाईगांव	28. गौसाईगांव और 29. कोक्राझाड़ पश्चिम (अ. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
10. कामरूप जिला	(क) उपायुक्त, कामरूप, गुवाहाटी	48. बोको (अ. ज. जा.) 49. चयगांव 50. पानसबारी 51. जलकुवाडी 52. दिसपुर 53. गुवाहाटी पूर्व और 54. गुवाहाटी पश्चिम विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, रंगिया	55. हाओ 56. कामलपुर और 57. रंगिया विधान सभा निर्वाचन-क्षेत्र
11. नल्बाड़ी जिला	उपायुक्त, नल्बाड़ी	58. तामूलपुर 59. नल्बाड़ी 60. बडलेनी 61. धर्मपुर 62. धरमा (अ. ज. जा.) और 63. चापामुड़ी (अ. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
12. बारपेटा जिला	(क) उपायुक्त, बारपेटा	40. सोरभोग 43. बारपेटा 44. जनिया 45. भागबट और 47. चेंगा विधान सभा निर्वाचन-क्षेत्र

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	(ख) उप-प्रभागीय अधिकारी, बाजाली	41. भवानीपुर 42. पाटाचारकुचो और 46. मोरखेरी विधान सभा निर्वाचन-क्षेत्र
13. दारंग जिला	(क) उपायुक्त, दारंग, मंगलदोई	65. कलशगांव 66. सिपामाड़ 67. मंगलदोई (घ. जा.) और 68. दलगांव विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, उदलगुरी	64. पालेरी 69. उदलगुरी (घ. ज. जा.) और 70. भजबत विधान सभा निर्वाचन-क्षेत्र
14. सोनितपुर जिला	(क) उपायुक्त, सोनितपुर, तेजपुर	71. धकियाजुली 72. बडछन्ना 73. तेजपुर 74. रंगापारा और 75. सुतिया विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, बिस्वनाथ, केरियाली	76. बिस्वनाथ 77. बहाली और 78. गोहपुर विधान सभा निर्वाचन-क्षेत्र
15. नौगोंग जिला	(क) उपायुक्त, नौगोंग	82. राहा (घ. जा.) 83. धिग 84. बाटात्रोबा 86. नौगोंग और 87. बरहामपुर विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, होजाई शंकरदेव नगर	90. जमुनामुख 91. होजाई और 92. लुमिंग विधान सभा निर्वाचन-क्षेत्र
	(ग) उप-प्रभागीय अधिकारी, कलियाबोर	85. रूपोहीझाट 88. मामागुडी और 89. कलियाबोर विधान सभा निर्वाचन-क्षेत्र
16. मरिगांव जिला	उपायुक्त, मरिगांव	79. जगिरोड (घ. जा.) 80. मरिगांव और 81. लहुरीघाट विधान सभा निर्वाचन-क्षेत्र
17. जोरहट जिला	(क) उपायुक्त, जोरहट	97. देरगांव (घ. जा.) 99. जोरहट 100. टीटाबार 101. मरियानी और 102. दश्रोक विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, मजुली गरमुर	99. मजुली (घ. ज. जा.) विधान सभा निर्वाचन-क्षेत्र



1	2	3
18. गोलाघाट जिला	(क) उपायुक्त, गोलाघाट	93. बोकाछाट 95. गोलाघाट और 96. मुस्ताई विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, धनसिरी	94. सखपठार विधान सभा निर्वाचन-क्षेत्र
19. मित्रसगर जिला	(क) उपायुक्त, मित्रसगर	103. असगुडी 104. नाजिरा 107. थोबरा और 108. मित्रसगर विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, सराईदेब, सोनारी	105. महामारा और 106. सोनारी विधान सभा निर्वाचन-क्षेत्र
20. लक्ष्मपुर जिला	(क) उपायुक्त, लक्ष्मपुर	109. बिहपुरिया 110. नाथोबोहरा और 111. लक्ष्मपुर विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, धकुप्राखाना	112. धकुप्राखाना (ध. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
21. धेमाजी जिला	(क) उपायुक्त, धेमाजी	113. धेमाजी (ध. ज. जा.) विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, जोनाई	114. जोनाई विधान सभा निर्वाचन-क्षेत्र
22. डिब्रुगढ़ जिला	(क) उपायुक्त, डिब्रुगढ़	115. मोरम 116. डिब्रुगढ़ 117. साहीबल 118. वृत्तिभ्राजन 119. टिगखोंग 120. नाहरकटिया और 121. छाबुघा विधान सभा निर्वाचन-क्षेत्र
23. तिनसुकिया जिला	(क) उपायुक्त, तिनसुकिया	122. तिनसुकिया 123. डिब्रोई और 125. डूम-डूमा विधान सभा निर्वाचन-क्षेत्र
	(ख) उप-प्रभागीय अधिकारी, मरधेरिता	124. मरधेरिता विधान सभा निर्वाचन-क्षेत्र
	(ग) उप-प्रभागीय अधिकारी, सदिया	126. सदिया विधान सभा निर्वाचन-क्षेत्र

[सं. 508/असम 90]

आदेश से,

सी. एल. रोज, सचिव

New Delhi, the 3rd January, 1991

O.N. 5 :- In pursuance of sub-sections (1) and (2) of section 13A of the Representation of the People Act, 1950 (43 of 1950), and in supersession of its notification No. 508/AS/89 dated. 26th December, 1989, the Election Commission, in consultation with the State Government, hereby:-

- (1) designates for each district in the State of Assam specified in column 1 of the Table below the officer or officers specified against it in column 2 thereof as the District Election Officer for the District, and
- (2) Specifies the area in respect of which each such officer shall exercise jurisdiction, in column 3 of the Table

TABLE

Sl. No. and Name of District	Designation of District Election Officer	Area of jurisdiction
1	2	3
1. Karimganj	Deputy Commissioner, Karimganj.	1. Ratabari (SC) 2. Patharkandi 3. Karimganj North 4. Karimganj South and 5. Badarpur assembly constituencies.
2. Hailakandi	Deputy Commissioner, Hailakandi	6. Hailakandi 7. Katlicherra and 8. Algapur assembly constituencies.
3. Cachar	Deputy Commissioner, Cachar, Silchar.	9. Silchar 10. Sonai 10. Dholai (SC) 11. Udarbond 13. Lakhipur 14. Borkhola and 15. Katigora assembly constituencies.
4. North Cachar Hills District	Deputy Commissioner, N.C. Hills, Haflong.	16. Haflong (ST) assembly constituency.
5. Karbi Anglong	(a) Deputy Commissioner, Karbi Anglong, Diphu.  (b) Sub-Divisional Officer Hamren.	17. Bokajan (ST) 18. Howraghat (ST) and 19. Diphu (ST) assembly constituencies. 20. Baithalangso (ST) assembly constituency.
6. Dhubri	(a) Deputy Commissioner, Dhubri.  (b) Sub-Divisional Officer, Bilasipara  (c) Sub-Divisional Officer, South Salmara, Mankachar.	23. Dhubri 24. Gauripur and 25. Golakganj assembly constituencies. 26. Bilasipara West 27. Bilasipara East assembly constituencies. 21. Mankachar and 22. Salmara South assembly constituencies.
7. Goalpara	Deputy Commissioner, Goalpara.	36. Dudhnoi (ST) 37. Goalpara East 38. Goalpara West and 39. Jaleswar assembly constituencies.
8. Bongaigaon	(a) Deputy Commissioner, Bongaigaon. (b) Sub-Divisional Officer, Bijni  (c) Sub-Divisional Officer, North Salmara, Abhayapuri.	32. Bongaigaon assembly constituency. 33. Bijni assembly constituency. 34. Abhayapuri North and 35. Abhayapuri South (SC) assembly constituencies.

1	2	3
9. Kokrajhar District	(a) Deputy Commissioner, Kokrajhar.	30. Kokrajhar East (ST) and 31-Sidli (ST) assembly constituencies.
	(b) Sub-Divisional Officer, Gossaigaon.	28. Gossaigaon and 29. Kokrajhar West (ST) assembly constituencies.
10. Kamrup District	(a) Deputy Commissioner, Kamrup, Guwahati.	48. Boko (SC) 49. Chaygaon 50. Palasbari 51. Jaluk Bari 52. Dispur 53. Gauhati East and 54. Gauhati West assembly constituencies.
	(b) Sub-Divisional Officer, Rangia.	56. Hajo 56. Kamalpurand 57. Rangia assembly constituencies.
11. Nalbari District	Deputy Commissioner, Nalbari	58. Tamulpur 59. Nalbari 60. Barkhetry 61. Dharamapur 62. Barama (ST) and 63. Chapaguri (ST) assembly constituencies.
12. Barpeta District	(a) Deputy Commissioner, Barpeta.	40. Sorbhog 43. Barpeta 44. Jania 45. Baghbar and 47. Chenga assembly constituencies.
	(b) Sub-Divisional Officer, Bajali.	41. Bhabanipur 42. Patacharkuchi and 46. Sorukhetri assembly constituencies.
13. Darrang District	(a) Deputy Commissioner, Darrang, Mangaldoi.	65. Kalaigaon 66. Sipajhar 67. Mangaldoi (SC) and 68. Dalgaon assembly constituencies.
	(b) Sub-Divisional Officer, Udalguri.	64. Panery 69. Udalguri (ST) and 70. Majbat assembly constituencies.
14. Sonitpur District	(a) Deputy Commissioner, Sonitpur, Tezpur.	71. Dhekiajuli 72. Borchalla 73. Tezpur 74. Rangapara and 75. Sootea assembly constituencies.
	(b) Sub-Divisional Officer, Biswanath, Cariali.	76. Biswanath 77. Behali and 78. Gohpur assembly constituencies.

1	2	3
15. Nagaon District.	(a) Deputy Commissioner, Nagaon.	82. Raha (SC) 83. Dhing 84. Batadroba 86. Nowgong and 87. Barhampur assembly constituencies.
	(b) Sub-Divisional Officer, Hojai, Sankardev Nagar.	90. Jamunamukh 91. Hojai and 92. Lumding assembly constituencies.
	(c) Sub-Divisional Officer, Kaliabor.	85. Rupahighat 88. Samaguri and 89. Kaliabor assembly constituencies.
16. Morigaon District	Deputy Commissioner, Morigaon.	79. Jagiroad (SC) 80. Morigaon and 81. Laharighat assembly constituencies.
17. Jorhat District	(a) Deputy Commissioner, Jorhat.	97. Dergaon (SC) 98. Jorhat 100. Tigabor 101. Moriani and 102. Teok assembly constituencies.
	(b) Sub-Divisional Officer, Majuli Garmur.	99. Majuli (ST) assembly constituencies.
18. Golaghat District	(a) Deputy Commissioner, Golaghat.	93. Gokakhat 95. Golaghat and 96. Khumtai assembly constituencies.
	(b) Sub-Divisional Officer, Dhansiri.	94. Sarupathar assembly constituency.
19. Sibsagar District	(a) Deputy Commissioner, Sibsagar.	103. Amguri 104. Nazira 107. Thowra and 108. Sibsagar assembly constituency.
	(b) Sub-Divisional Officer, Charaideo, Sonari.	105. Mahmara and 106. Sonari assembly constituencies.
20. Lakhimpur District	(a) Deputy Commissioner, Lakhimpur.	109. Bihpuria 110. Naobaicha and 111. Lakhimpur assembly constituencies.
	(b) Sub-Divisional Officer, Dhakuakhana	112. Dhakuakhana (ST) assembly constituency.
21. Dhamaji District	(a) Deputy Commissioner, Dhamaji	113. Dhamaji (ST) assembly constituency.
	(b) Sub-Divisional Officer, Jonai	114. Jonai (ST) assembly constituency.

1	2	3
22. Dibrugarh District	(a) Deputy Commissioner, Dibrugarh.	115. Moran 116. Dibrugarh 117. Lahowal 118. Duliajan 119. Tingkhong 120. Naharkatia and 121. Chabua assembly constituencies.
23. Tinsukia District	(a) Deputy Commissioner, Tinsukia.  (b) Sub-Divisional Officer, Margherita. (c) Sub-Divisional Officer, Sadiya.	122. Tinsukia 123. Digboi and 125. Dom Dooma assembly constituencies. 124. Margherita assembly constituency. 126. Sadiya assembly constituency.

[No. 508/AS/90]  
By Order,  
C.L. ROSE, Secy.

नई दिल्ली, 3 जनवरी, 1991

आ.प्र. 6.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1980 की निर्वाचन प्रती संख्या 1 उच्च न्यायालय के तारीख 3/12/1981 का निर्णय एतद्वारा प्रकाशित करता है।

(संलग्न आदेश अंग्रेजी में छापी है)

[सं० 82/अ० और क्र०/81]

आदेश से,

मनश्याम खोहर, प्रवर सचिव

New Delhi, the 3rd January, 1991

O.N. 6.—In pursuance of Section 106 of the Representation of the People Act, 1951, (43 of 1951) the Election Commission hereby publishes the Order dated 3/12/1981 of the High Court of Jammu and Kashmir at Jammu in Election Petition No. 1 of 1980.

# HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR PRESENT

Hon'ble Mr Justice G. M. Mir.

Election petition No. 1/80

Mirza Safadar Ali Beg Vs. G. R. Kouchak,  
Mr. O.N. Tikoo for the petitioner  
Mr. H.M. Sadiq for the respondent.

This is a petition u/ss 80, 81 and 84 of the Representation of the People Act, 1951 (hereinafter referred to as the Act) for declaring the election of the respondent to Parliament held in January 1980, void. The petitioner claims to be a citizen of India and a permanent resident of Jammu and Kashmir state and also an elector in the parliamentary constituency Anantnag and therefore, eligible to vote at elections to parliament and also to file an election petition.

It has been stated in the petition that in January 1980 when parliamentary elections were held in An-

antnag constituency, the constesting candidates were besides the respondent Shri Ali Mohd. Naik, Shri Mohd. Shafi Qureshi and Shri Mohd. Yousuf Mir.

The respondent was declared elected on 9-1-1980 and the petition having been filed on 23-2-1980 was within the period of limitation.

It is alleged that the respondent was a close relation of Shri G. N. Naik the Minister for Revenue and Agriculture in the State and a friend of Shri G. M. Shah another Minister in the cabinet, both of whom were unduly interested in advancing the election prospects of the respondent and as such resorted to all means unfair and foul, to achieve that purpose.

It has been alleged that Shri Mohd Shafi Qureshi who was a candidate at elections was refused accommodation in Achabal Dak Bangalow under the influence of the above Minister while the Dak Bunglow was practically occupied by the respondent and his well-wishers. It has been next alleged that the State Govt. had earlier decided to introduce, Food for work programme in the state, but it remained as a dead letter till the elections came near. The programme was put in action just before the election to further the prospects of the respdt. in the elections. This has been construed by the petitioner as a patent and direct attempt by the Govt. in influence Public opinion in favour of the Respondent earn public gratitude so as to induce the electors to exercise their right of vote in favour of the state party nominee i.e. the respondent. A number of persons who did not belong to

the ruling party were discriminated against and the benefits of the programme under food for work were not extended to them. The workers of the Inquilabi National Conference were harassed by issuance of processes for the recovery of cooperative loans so as to cow down the opposition to the respondent.

In para 9 of the petition it has been alleged that on 29-7-79 a Govt. Jeep belonging to state Motor Garages with a fake number plate and a national conference flag and mike fitted on it was seized by the people at Pulwama and was taken to police station concerned. The jeep bore No. JKN 970. It was observed that this jeep was in the use of the respondent for election campaigning for a number of weeks. The jeep belonged to state Motor garages and could not have been procured and put to use by the respondent during the elections without the active assistance and consent of the officers of the state Motor Garages in furtherance of the prospects of the respondent chances at the election. This fact according to the petitioner, not only amounted to an immoral and legal lapse but constituted in low a blatant corrupt practice which by itself would be sufficient ground to render the respondent's election void. It has been further alleged that the entire state motor Garages transport and its Dy. Director had been kept at the disposal of the respondent to provide him any number of Govt. vehicles for the election campaigning purpose. The real number plates of such vehicles were removed and false number plates put on these vehicles and made available to the respondent who used the same for purposes of his election campaign. In this regard it has been alleged that Govt. Jeep No. 8332 JK was given the number of JKP 332 Govt. Jeep No. 508 was given the number 326 and Govt. Jeep No. 182 was given the No. 196 and all these jeeps were kept at the disposal of the respondent who used all these during his electioneering campaign.

The cousin of the respondent Shri G. N. Kourak, Revenue Minister, Shri G. M. Shah, transport Minister and Shri Sheikh Mohd Abdulla, the Chief Minister of the State, it is next alleged, addressed several public meetings in the constituency delivering speeches in support of the respondent and thus corrupt practices were committed not only by delivering speeches but also by using official cars for the enhancement of election chances of a party candidate.

It has next been stated that a number of votes were found in the ballot boxes of the respondent who had either died or were on the day of poll out of the state.

It has also been alleged that during counting of votes tagged bundles of ballots were recovered from several boxes and most of them had been cast in favour of the respondent. A number of boxes were found without seal and without signatures of the polling agents. On the day when the counting was resumed the strong room was opened in absence of either candidates or any of their agents, nor the other candidate were informed about it. The majority of the polling officers in the constituency. It is alleged, were from Revenue and Agriculture Departments of which the respondent's cousin was Minister Incharge.

It has been therefore, submitted that on the facts stated in the Election petition, the law was obvious that election of the respondent to the parliament was void and be declared as such. The petition is supported by an affidavit.

In the written statement the returned candidate, the respondent, has raised a number of preliminary objections, HA objections were that the petition did not conform to the mandatory provisions of section 83 of the Act. That the petition was not properly verified, that the affidavit accompanying the petition was not in prescribed form that the petitioner has failed to refer to the allegations of corrupt practices in the form of a schedule or annexure as required under Law. That the allegations made by the petitioner did not fall in the category of material facts as would give a cause of action to the petitioner to file the petition under clause (8) of S-100 read with Section 123 of the Act that even if it be assumed that the allegations in the petition do give rise to a cause of action still the petition was liable to be dismissed in the absence of material particulars having not been given which requirement and to be complied with mandatorily and that affidavit did not satisfy the requirements of a valid affidavit and so or all these grounds the petition was liable to be dismissed. On the merits the rep. has denied in his written statement all the charges levelled against him and has stated that whether or not Sh. Mohd Shafi Qureshi was given accommodation in Achabal Dak Bungalow was not his concern, nor the Cabinet Ministers named in the petition went from place to place as Cabinet Ministers to give him support and canvass for his election. But if the Chief Minister and other ministers delivered speeches in support of his candidates it was because the respondent belonged to the National Conference and was a candidate set up by the same political organisation of which the Chief Minister was the President and others were members. It has been further alleged that he allegation were vague indefinite, speculative and could not legally give rise to any triable issue in the case. With regard to a number of allegations raised in the election petition, the respect in the written statement has stated that the same were vague and that material particulars not having been given it was not possible to reply the same in detail.

On 19-9-1980 the following eight issues were framed.

1. Whether the various allegation made in the (a) petition even if true of all in that category of material facts as could give a cause of action to the petitioner to file a petition under clause (b) of S-100 read with 8-123 of the Representation of People Act?

(b) If so does the petition give rise to any triable issue and as such is liable to be dismissed? OPR

2. Whether the petition is not in conformity with the (a) provisional laid down in S. 83 of the Representation People Act?

(b) If so is the petition liable to be dismissed? OPR

3. Is the petition not verified in accordance with Law? If so what is its effect? OPR.

4. Whether the affidavit accompanying the petition is in the prescribed form and the list of corrupt practices given in the petition vary in particulars and natural from those given in the affidavit? and if so what is its effect? OPR

5. Whether the petitioner has not given such particulars as he was bound to give under the provisions of S.83 clause (b) of the Representation of People Act. If so what is its effect? OPR

6. Whether the petition is based on charges which are vague and speculative and if so what is its effect? OPR.

7. Whether the persons against whom allegations have been made in the petition are necessary parties to the petition? So what is its effect? OPR

8. Whether the verification of the petition is not accordance with law and what is its effect? OPR

No evidence has been led with regard to all these issues by the parties. The arguments were, therefore, heard. The main contention of the learned counsel for the respdt. was that with regard to various allegations of corrupt practices having been allegedly committed by the respondent no material particulars as required under law have been furnished. He, therefore, was of the view that the petition in hand could not be taken up for consideration merely on the basis of alleged material facts. According to him it was not enough in law for a petitioner to mention a ground of corrupt practice having been allegedly committed by the other side by merely referring to a certain fact or set of facts, but it was further incumbent and necessary for the petitioner to supply the detailed material particulars of each and every fact alleged by him. He has referred to S-100 of the Act in particular and has relied especially on the provisions contained in S. 100 (1) (a) of the Act.

Section 100 details the grounds for declaring the election void. One of the grounds for such declaration was contained in sub-clause (d) which itself provides for further sub-clauses for convenience sake. I reproduced the relevant portion of S. 100 of the Act as under.

Subject to the provisions of Sub-Sec. (2) if the High Court is of opinion,

(d) That the result of the election insofar as it concerns a returned candidate has been materially affected.

(i) by improper acceptance of any nomination, or  
(ii) by any corrupt practices committed in the interest of the returned candidate by an agent other than his election agent; or

(iii) By the improper reception refusal or rejection of any vote or of the reception of any vote which is void, or

(iv) by any non-compliance with the provision of the constitution or of this act or of any Rules or orders made under this Act. \*The High Court shall declare the election of the candidate to be void."

It has been stressed that even if the corrupt practices alleged to have been committed by the respdt. had in fact been so committed, which of course the learned counsel for the respondent vehemently denied to have been so committed, it was further necessary and the main requirement of law in this regard that the petitioner should have alleged in the election petition specifically that because of such corrupt practice having been committed by the respondent himself or by his election agent or by other agent with his consent the result of election so far as it concerned the respondent has been materially affected. The petitioner nowhere however has alleged that his result of the election so far as it concerned the returned candidate has been materially affected because there was non-compliance with the provisions of the constitution or the Act or of any Rules or orders made u/s 100 of the Act. In AIR 1969 SC 734 it has been laid down that where a corrupt practice is charged against the returned candidate the election petition must set forth full particulars of the corrupt practice so as to given the charge a definite character and to enable the court to understand what the charge was from a perusal of the election petition, it was obvious that the argument of the learned counsel for the respdt. was based on sound and sure footings.

The first allegation contained in para 4 of the petition was that the Chief Minister Sheikh Mohd. Abdulla, Shri G. N. Kouchal, Revenue Minister and Shri G. M. Shah, PWD Minister toured the area of the constituency and delivered speeches in support of the respondent and thus, created an impression in the mind of the electorate that Govt. was behind the back of the respondent and come what may, he would be declared elected. It is not denied that the Chief Minister as well as other Ministers did tour the constituency and delivered speeches in support of the respondent who was put up as a candidate by the National conference to which organisation the Chief Minister also belonged. The Chief Minister was also the president of the party. In that capacity he was entitled to declare to the public the policy of the party and ask the electorate the vote for this party. The fact that he was also the Chief Minister and other prominent persons who toured the constituency were Ministers would not deprive either the Chief Minister or his Ministers of that right. Further the allegation is devoid of material particulars. It is not stated in the petition as to what the speeches actually contained and also at which places in this constituency a particular Minister delivered his speech. The allegation clearly is devoid of material particulars and could not therefore, in law be considered as a ground for declaring the election of the returned candidate void.

The other allegation was that one of the contesting candidates Shri Mohd. Shafi Qureshi was not given accommodation in the Khanal Dak Bungalow under the influence of the Govt. May, he,

Mr. Qureshi might not have been given the accommodation in the D. K. Gungali but para 5 of the petition nowhere states that the result of the election in so far as it concerned the respondent has been materially affected thereby. This allegation also on the same grounds therefore falls.

Similarly the allegation in para 6 of the petition also fails for not having declared in so many words that the result of the election was materially affected in favour of the respondent by putting into action by the Govt. the programme 'food for work' during the elections with regards to a like matter the following has been stated in AIR 1970 SC 211 :—

"As a result of the ordinance a large number of agriculturists got exemption from land revenue. Such an exemption does not amount to a gift offer or promise of any gratification within the meaning of S. 123 (1)(A) Nor is it possible to say that the Govt. was an agent of the respondent. It is true that the congress party was there in the congress party. It was given by an ordinance which was passed by the Govt. .... The Govt. thought that the demand for dearness allowance was legitimate and therefore announced its decision to the grant of increased dearness allowance the announcement of the grant of the increased dearness allowances at the meeting held on 16-2-1977 does not carry the matter any further. The charge is not established.

In para 8 of the petition the allegation that the workers of the Inqalabi National Conference were harassed by processes of recovery of cooperative loans suffers from the same defect. No names of such workers of Inqalabi National Conference have been given. No amount have been mentioned and no other particular has been supplied. The allegation also suffers from the lack of supplying of material particulars.

By far the most important allegation levelled in the petition is contained in para 9 of the same. It has been alleged that on 27-12-1979 Govt. jeep belonging to State Motor Garages with a fake number plate of JKB 907 was put at the disposal of the respondent who used the same for purposes of electioneering campaign. It was alleged that this was a blatant corrupt practice which alone would render the respondent's election void. Some other jeeps have also been alleged to have been kept at the disposal of the respondent who used the same during allegation campaign. The allegation, however, suffers from a number of defects. It lacks in giving full material particulars. It fails to mention that the jeep or jeeps concerned were procured by the respondent, his election agent or any one else authorised by the respondent in this behalf. It mentions nowhere the names of those persons nor even that of the respondent, that it was at their or his instance that the jeeps were procured for purposes of conducting the electioneering campaign of the respondent. The allegation also does not mention that by using these vehicles during the election a campaign the result of the election was materially affected in so far as it concerned the returned candidate. Unless these facts were alleged,

the same could not be presumed so far as the alleged circumstance mentioned in para 9 that the jeep No. JKB 907 was caught hold of while it was being used by the respondent's workers by a number of people is concerned it also fails to give material particulars. The names and addresses of those who caught hold of the jeep and the names of those persons who were in the jeep at the relevant time have not been supplied. This was at issue in so far as it failed to give the material particulars of a fact alleged.

The other allegations such as use of Field Publicity and Information Department of the state for the sake of enhancing the prestige and prospects of the respondent at the election have also been made without any material particulars whatsoever having been supplied.

It has also been alleged that a number of boxes were found without seal and even without signatures of the polling agents. But neither the names of the polling agents nor places from which such boxes had been received have been given. Obviously this ground also is hit by having not supplied the requisite material particulars. It has been alleged that one Shri Abdul Gani Veeri put in 50 votes in the ballot boxes. It has, however not been stated in names whose ballots were issued and in what manner the bundle of 50 ballots was put in the box.

There were some more allegations levelled in the election petition against the respondent having committed some other corrupt practices but no particulars have been given of those corrupt practices nor it has been stated in the petition that the same were committed in furtherance of the election of the respondent.

It is well settled that the election of a returned candidate should not be lightly interfered with. In a number of cases decided both by various High Courts and Supreme Court it has been laid down that a petitioner seeking such an interference in the election of the returned candidate must strictly conform to the requirements of law laid down in this regard. One perusal of S. 100(1) it is apparent that clause (a), (b) and (c) are in one group at one place and as one class but clause (d) was separate sub-heading with four sub-clauses of its own. The arrangement of the Sub-section is in accordance to the effect of a particular ground on the election. So far as the cases that fall within the provisions of clauses (a) to (c) it is permissible in law to presume that the result of the election had been materially affected. But the like presumption could not in law be taken in petitions falling under Clause (d). The ground or grounds mentioned therein even if proved would not be sufficient to declare an election void. Under this clause it was necessarily required to be proved further that the result of the election in so far as it concerned the returned candidate has been materially affected. To establish that the result has been materially affected. It was essential for the petitioner in the first instance to say so in his petition. In that case it might have required some evidence to prove or disprove the alleged fact. But in the petition herein



no where it has been averred that the result of the election in so far as it concerned the returned candidate has been materially affected by any alleged corrupt practice mentioned in clause (d) of S. 100 of the Act. The burden of proof that the result of election has been materially affected lies on the person who impugns the election. In the election petition at hand, no evidence has been led by the petitioner to prove the allegations. He however could not have done so as the points involved had not been raised. In the election petition itself as it has been stated above. The petitioner having failed to mention the fact in the petition and having failed to adduce the evidence, the only inescapable conclusion under the circumstances would be that the burden to establish that the corrupt practice alleged has materially affected the result of the election in favour of the respondent has not been discharged. A bare statement of allegations could not be regarded as sufficient proof. It is by now settled that the all allegations of corrupt practices having been committed with regards to an election were in the nature of a criminal charge and thus the proceedings were in the nature of criminal than civil proceedings.

In Air 1972 SC 515 it has been laid down as follows: "An election petition which merely alleges corrupt practice against successful candidate of obtaining and procuring or attempting to obtain or procure the assistance of certain named Govt. servants for the furtherance of his prospects, without giving the material facts and the necessary particulars as to the nature of the assistance the time and place where it was sought does not furnish any cause action and it is no election petition in the eye of law. As such it is not maintainable."

I decide the issues mentioned above as follows :

Issue No. 1.—The petition even if sure does not fall in that category of material facts as could give a cause of action to the petitioner to file the petition under clause (b) of S. 100 read with S. 123 of the Act. It is also held that the petition as it stands does not give rise to any triable issue and accordingly issue No. (1) (a) is decided against the petitioner as issued No. 1(b) is decided in favour of the respondent.

Issue No. 2.—It is decided in favour of the respondent.

Issue No. 3.—It is decided in favour of the petitioner. It is held that the verification is in accordance with law.

Issue No. 4.—It is also decided in favour of the respondent.

Issue No. 5.—It is also decided in favour of the respondent.

Issue No. 6.—It is also decided in favour of the respondent and against the petitioner.

Issue No. 7.—Has not been pressed by learned counsel for the petitioner and therefore is decided in favour of the respondent.

Issue No. 8.—Also has not been pressed and accordingly is decided in favour of the respondent.

The net result of the above discourse is that the petition fails. It is therefore, dismissed with costs. The substance of the decision arrived at as above be immediately communicated to the Speaker of the Parliament of India, New Delhi as also to the Election Commission of India, New Delhi.

Dated : 3-12-90.

Sd/- Judge

[No. 82/J&K/81]

By Order,

GHANSHYAM KOHAR, Under Secy.

नई दिल्ली, 7- जनवरी, 1991

आ. प्र. 7.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा-13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, अरुणाचल प्रदेश सरकार के परामर्श से श्री टी. रिंगू, आई. ए. एस. के स्थान पर श्री तोयो दाई, आई.एफ.ए. एस., प्रांतीय आयुक्त, पश्चिम प्रभाग और ग्रामीण विभाग को उनके कार्य भार सम्भालने की तारीख से अगली आदेशों तक अरुणाचल प्रदेश राज्य मुख्य निर्वाचन अधिकारी के रूप में एतद्वारा नामनिर्दिष्ट करता है।

[सं. 154/अरुणा/91]

आदेश से,

के. पी. जी. कुट्टी, सचिव

New Delhi, the 7th January, 1991

O.N. 7.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Arunachal Pradesh hereby nominates Shri Toyi Dai, IFAS, Divisional Commissioner, West Division & Rural Department as the Chief Electoral Officer for the State of Arunachal Pradesh with effect from the date he takes over charge and until further orders vice Shri T. Ringu IAS.

No. 154/ARUN/91]

By Order,

K. P. G. KUTTY, Secy.

नई दिल्ली, 7 जनवरी, 1991

आ. प्र. 8.—लोक प्रतिनिधित्व अधिनियम 1951 (1951 का 43) की धारा (1) के अनुसरण में, निर्वाचन आयोग की 1980 की निर्वाचन प्रती संख्या 2 में जम्मू और कश्मीर उच्च न्यायालय, जम्मू के तारीख 5-12-1990 का निर्णय एतद्वारा प्रकाशित करता है।  
(संलग्न आदेश अधीन में छापे हैं।)

[सं. 82/ज. और क./ (2/801/90)]

संलग्न आदेश अधीन में छापे हैं।

New Delhi, the 7th January, 1991

O N. 8.—In pursuance of section 111 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order Judgment dated the 5th December, 1990 of the High Court of Jammu and Kashmir, Jammu in Election Petition No. 2 of 1980.

HIGH COURT OF JAMMU AND KASHMIR AT  
JAMMU  
PRESENT :

THE HON'BLE SHRI S. S. KANG, CHIEF  
JUSTICE

GMP NO. 86 of 1986

Hari Om Singh Vs. Dr. Karan Singh  
Memo for the petitioner.

M/s. S. P. Gupta and H. L. Bhagotra for the respondent.

This is an application under section 115 of the J&K Representation of Peoples Act, 1957 (the Act for short) for withdrawal of election petition No. 2 of 1980 Hari Om Singh Vs. Dr. Karan Singh against the election of Dr. Karan Singh respondent in the 1980 Parliamentary election from Udhampur Parliamentary constituency.

Notice of this application was given to the parties and was also published in the Govt. Gazette dated : March 20, 1986. Objections to this application were filed by Sh. Sat Paul son of Amar Chand on 2nd May, 1986. The prayer made therein was that the applicant i.e. Sat Paul aforementioned be allowed to intervene in the election petition and be arrayed as a petitioner in the said petition and be allowed to continue the petition. This application for intervention was opposed. One of the grounds taken was that it was barred by limitation. This objection is well taken. Under clause (c) sub-sec. (2) of sec. 116 of the Act a person who might himself have been a petitioner may within 14 days of such publication (in the Official Gazette) apply to be substituted in the petition in place of the party withdrawing. Admittedly this application has been moved beyond the period of 14 days. The Gazette notification was published on 20th March, 1986 and the application has been filed on 2nd May, 1986. The application is, therefore, time barred and the application objections are dismissed as time barred. Nobody has appeared to press this application objections (CMP No. 235).

Nobody-else has filed an application opposing the withdrawal or being impleaded as party-petitioner.

I have carefully perused the application. (CMP No. 86/1986) and the materials on record.

The applicant has given a very cogent reason for withdrawing from the election petition. During the pendency of the election petition, the applicant has

been appointed to the State Judicial Services and had joined that office. He, therefore, did not think it proper to continue with the election petition. I am also satisfied from the materials on the file that the application has not been induced by any bargain or consideration. Even in the application of Sat Paul no such allegation has been made. It has been averred in the application that the withdrawal application is being moved in the High Court in a collusive manner. There is no allegation that the application for withdrawal has been motivated by any bargain or consideration.

The election in which respondent was elected had taken place in 1980, that Parliament had been dissolved in 1984. Thereafter fresh elections were held in 1984. Even that Parliament was also dissolved because its term had come to an end in 1989. Another general election has taken place and a new Parliament has been elected in 1989. Under these circumstances it is fair to conclude that there was no bargain or consideration for withdrawing the election petition. The application is allowed and the election petition No. 2 of 1980 is permitted to be withdrawn. The petitioner shall pay Rs. 500 as costs to the respondent. Other Misc. petitions pending shall also be deemed to have been decided with the withdrawal of this election petition.

Sd/-  
HCJ

Jammu the  
Dec. 5th, 1990.

No. 2/134 dated 14-12-90

Copy of the above order forward to Chief Election Commission J & K for from of impralin—n.a.

Seal

[No. 82-J&K-HP(2/80(90)]

आदेश

अ. प्र. ०.—निर्वाचन आयोग का समाधान हो गया है कि सन् 1989 में लोक सभा के लिए हुए साधारण निर्वाचन में 2—भारतगाम्ही निर्वाचन-क्षेत्र से निर्वाचन लड़ने वाले एक अभ्यर्थी श्री नसीबुद्दिन राजवाली धनशाब, मकान सं. ००-डी घंटासूराद, पो. नारैलिस मारगाव, लोक प्रतिनिधित्व अधिनियम, 1951 तथा हर्षजन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा शीखित करने में असफल रहे हैं;

और, उक्त अभ्यर्थी ने निर्वाचन आयोग द्वारा सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण अथवा न्यायोचित्य नहीं है;

अतः अब उक्त अधिनियम की धारा 10-क के अनुसरण में, उक्त श्री नसीबुद्दिन राजवाली धनशाब को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं. 76/नोका/सो. स/९०(2)/९49

## ORDER

O.N. 9.—Whereas the Election Commission is satisfied that Shri Nasibuddhi Rajwali Dhansab, H. No. 66-D, Ghantamorod, Post Navclim, South Goa District Marmugao a contesting candidate for the General Election to the House of the People held in 1989 from 2-Mormugao constituency has failed to lodge the account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder :—

And, whereas the said candidate has not furnished any reason or explanation for the said failure even after due notice by the Election Commission, and the Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act the Election Commission hereby declares the said Sh. Nasibuddhi Rajwali Dhansab, to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of order.

(No. 76/Goa-HP/90(2)/949)

## आदेश

भा. अ. 10:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तंभ (2) में यथा निर्दिष्ट विधान सभा के साधारण निर्वाचन के लिए जो स्तंभ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तंभ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गये नियमों द्वारा अपेक्षित उक्त सारणी के स्तंभ (5) में यथा वंशित अपने निर्वाचन व्ययों का लेखा वाखिल करने में असफल रहा है;

और, उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए न तो कोई कारण न स्पष्टीकरण ही दिया है और उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के परभाव निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है।

अतः अब निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तंभ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्र. सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र का नाम व क्र. सं.	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निर्वाचन लड़ने वाले अभ्यर्थी का निरर्हता का कारण
1	2	3	4	5
6.	गुजरात विधान सभा के लिए साधारण निर्वाचन 1990,	153—कार्जन (प्र. जा.)	श्री रोहित केशव भाई कालामाई, स्थान पो. भा. गोरखी, जिला—बड़ोदा, गुजरात	निर्वाचन व्ययों का कोई भी लेखा वाखिल करने में असफल।
7.	गुजरात विधान सभा के लिए साधारण निर्वाचन 1990,	141—छोटा उबयपुर	श्री राधबा रुधियाभाई इन्द्रासिंह, स्थान पोस्ट खावखोड, तालुका छोटा-उबयपुर गुजरात	निर्वाचन व्ययों का कोई भी लेखा वाखिल करने में असफल।
8.	—वही—	—वही—	श्री राधबा हरिसिंह भाई कुलनयाभाई, स्थान पोस्ट सिन्हादा तालुका, छोटा-उबयपुर गुजरात	—वही—

[सं. 76/गुज/90 (6-8) (वि. स.)/689]

## ORDER

O.N. 10.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the General Election to the Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of his election expenses as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has either not furnished any reason or explanation for the said failure

even after due notice or the Election Commission, after considering the representation made by him if any, is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order :—

TABLE

Sl. No.	Particulars of Election	S.No. & Name of the assembly constituency.	Name & Address of the constesting candidate.	Reason for Disqualification
1	2	3	4	5
6.	General Election to the Legislative Assembly, 1990 Gujarat State.	153-Kaijan (SC)	Sh. Rohit Keshavbhai Kalabhai, At. P.O. Sherkhi, Tal. Distt. Vadodara, Moti Sherkhi, Gujarat.	Failed to lodge any account of election expenses.
7.	—do —	141-Chhota Udepur	Sh. Rathwa Rudiyabhai Indrasing, At & P.O. Khadkhad, Tal. Chhota—Udepur, Gujarat.	—do—
8.	—do —	—do —	Sh. Rathwa Harsingbhai, Kutariyabhai, At & P.O. Sinhada, Tal. Chhota Udepur, Gujarat.	—do—

[No. 76/GJ/90(6-8)(IA)/689]

### आदेश

अ1. अ. 11:—निर्वाचन आयोग का समाधान हो गया है कि सन् 1989 में गोवा विधान सभा के लिए हुए साधारण निर्वाचन में 40—तिविम निर्वाचन-क्षेत्र से निर्वाचन लड़ने वाले एक अभ्यर्थी श्री नायक प्रशान्त मुकुन्द, अगोस-लोलियम कानाकोना दक्षिण गोवा जिला मारगोव, लोक प्रतिनिधित्व अधिनियम, 1951 तथा लक्ष्मीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं;

और उक्त अभ्यर्थी ने, निर्वाचन आयोग द्वारा सम्यक् सूचना दिए जाने पर भी, उक्त असफलता के लिए कोई कारण प्रथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण प्रथवा व्याख्येय नहीं है।

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में, उक्त श्री नायक प्रशान्त मुकुन्द को संसद के किसी भी सदन के या किसी राज्य का विधान सभा प्रथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश का तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[स. 76/गोवा-वि. स./190(26)/944]

आदेश से,

गनश्याम खोहर, अवर सचिव

### ORDER

O.N. 11.—Whereas the Election Commission is satisfied that Shri Naik Prashant Mukund, Agos-Loliem Canacona, South Goa District Margao a constesting candidate for the General Election to the Goa Legislative Assembly held in 1989 from 40-Tivim constituency has failed to lodge the account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder.

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even

after due notice by the Election Commission, and the Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Naik Prashant Mukund to be Disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

[No. 76/GOA-LA/90(26)/944]

By Order,

GHANSHYAM KHOHAR, Under Secy.

## आदेश

नई दिल्ली, 7 जनवरी, 1991

आ. अ. 12 :-निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट पंजाब राज्य से लोक सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम 1951 तथा तद्वर्ती बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दक्षित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा कोई भी लेखा दाखिल करने में असफल रहा है।

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्या नहीं है,

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम. सं. और नाम	अभ्यर्थी का नाम और पता	निरहेता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1989	4-जालंधर संसदीय निर्वाचन क्षेत्र	श्री विगत दास अका/गढ़, पो. सुधार जिला लुधियाना पंजाब	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
2. ---वही---		11-मटिग्वा (अ. जा.) संसदीय निर्वाचन क्षेत्र	श्रीमती सुखियार, कौर, पत्नी श्री मानसिंह गांव और पो. फूल, सहस्रौल रामपुरा फूल, पंजाब	विधि द्वारा अपेक्षित समय के अन्तर निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे।
3. ---वही---		5. फिल्लोर (अ. जा.) संसदीय निर्वाचन क्षेत्र	श्री अमीर बख्श गां. और पो. शाहपुर, सह. फिल्लोर जालंधर, पंजाब	---वही---

(सं. 76/पंजाब-लो. स./90/619)

आदेश से,

सी. आर. ब्रह्मम, चवर. सचिव

## ORDER

New Delhi, the 7th January, 1991

O.N. 12.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People from the State of Punjab as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of election expenses and/or within the time required by law as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of Parliament or of Legislative Assembly or Legislative Council of State/Union territory for a period of 3 years from the date of this Order.

TABLE

Sl. No.	Particulars of Election	S.No. & Name of Constituency	Name & Address of the Candidates	Reason for Disqualification
1.	General Election to the House of the People, 1989	4 - Jalandhar Parliamentary Constituency	Sh. Sigen Dass, Akalgarh, P.O. : Sudhar, Distt : Ludhiana Punjab.	Failed to lodge any account of Election Expenses
2.	—do—	11 -- Bhatinda (SC) Parliamentary Constituency	Smt. Mukhtiar Kaur, W/o Sh. Bhan Singh, Village & P.O : Phul, Tehsil : Rampura Phul, Punjab.	Failed to lodge her account of Election Expenses within the time required by law
3.	—do—	5—Phillaur (SC) Parliamentary Constituency	Sh. Amir Chand, Village & P.O. Shahpur Tehsil Phillaur, Distt : Jalandhar, Punjab.	—do—

[No. 76/PB-HP/90/619]

By Order,

C.R. BRAHMAM, Under Secy.

## भाषण

नई दिल्ली, 7 जनवरी, 1991

भा. प्र. 13:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट उत्तर प्रदेश राज्य से लोक सभा के लिए साधारण निर्वाचन 1989 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके नामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम 1951 तथा तत्पश्चात् बनाए गए नियमों द्वारा उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं।

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं किया है या उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याप्योचित्य नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित करता है।

## सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1989	40—पठरौता	श. बाबू लाल ग्राम—डोकरपो.—माहुरौली जिला—देवरिया (उ. प्र.)	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया
2.	—वही—	—वही—	श्री हरिप्रसाद गुप्ता ग्राम—बडा—छितीनी जिला—देवरिया (उ. प्र.)	—वही—

[सं. 76/उ. प्र. -लो. स. 90/78]

आदेश से,

राम किशन, अधिवक्ता सचिव

## ORDER

New Delhi, the 7th January, 1991

O.N. 13.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in Column (4) of the Table below at the General Election to the Lok Sabha, 1989 from the State of Uttar Pradesh as specified in Column (2) held from the constituency specified in Column (3) against his name has failed to lodge the account of his election expenses as shown in Column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission or after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in Column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of Election	S.No. & Name of the Constituency	Name & Address of the contesting candidate	Reason for Disqualification
1	2	3	4	5
1.	General Election to Lok Sabha, 1989	40—Padrauna	1. Sh. Baboo Lal Village : Tokar P.O. : Ahiroli, Distt. Deoria (UP)	Accounts of Election Expenses not lodged at all
2.	—do—	—do—	2. Sh. Hari Prasad Gupta, Village & P.O. : Chhitāuni Distt : Deoria (UP)	—do—

[No. 76/UP-HP/90/78]

By Order,

RAM KISHAN, Under Secy.

आवेण

नई दिल्ली, 7 जनवरी, 1991

आ. ध. 14—निर्वाचन आयोग का समाधान हो गया है कि नीचे की मारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्तिन बनाए गए नियमों द्वारा अपेक्षित उक्त मारणी के स्तम्भ (5) में यथा दक्षित करने में असफल रहा है;

और उक्त अभ्यर्थी ने सम्पत्ति सूचना दिए जाने पर भी उक्त असफलता के लिए न तो कोई कारण, न स्पष्टीकरण दिया है, और उनके द्वारा दिए गए अभ्यावेदन पर, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोजित्य नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की मारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्ति को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आवेदन की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

मारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम संख्या और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरक्षता का कारण
1	2	3	4	5
1.	अरुणाचल प्रदेश में लोकसभा के लिए साधारण निर्वाचन, 1989	1—अरुणाचल पश्चिम	श्री नाबम अनुम ग्राम रोतो, पो. घा. दौड़मुख, जिला लोवर, संबंदिरो अरुणाचल प्रदेश	अपने निर्वाचन व्ययों का कोई भी लेखा वाखिल करने में असफल रहे।

[संख्या 76/अरुणा-लो. स./1/90/1048]

## ORDER

New Delhi, the 7th January, 1991

O.N. 14.—Whereas the Election Commission is satisfied that the contesting candidate specified in column (4) of the Table below at the election to the House of the People specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after due notice the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of Election	S.No. and Name of constituency	Name and Address of contesting candidates.	Reason for disqualification
1	2	3	4	5
1.	General Election to House of the People, 1989 from Arunachal Pradesh.	1—Arunachal West	Shri Nabam Atum, Vill. Rono, P.O. Doimukh, Dist. Lower, Subansiri, Arunachal Pradesh.	Failed to lodge an account of his election expenses.

[No. 76/ARUN-HP/1/90/1048]

## आवेष्ट

आ. प्र. 15:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाये गये नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दणित अपने निर्वाचन व्ययों का लेखा अपेक्षित रीति से या निर्वाचन व्ययों का लेखा बिल्कुल ही दाखिल करने में असफल रहा है।

और, उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिये जाने पर भी उक्त असफलता के लिए न तो कोई कारण, न स्पष्टीकरण दिया है, और उनके द्वारा दिए गये अभ्यावेदनों पर, यदि कोई भी विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई प्रयुक्त कारण या ग्यायोचित्य नहीं हैं।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आवेष्ट की तारीख के तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की क. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहेता का कारण
1	2	3	4	5
1.	कर्मटक विधान सभा के लिए साधारण निर्वाचन, 1989	8—कमालापुर	श्री खेम सिंह, सुपुत्र बालूगी तालुक अफजलपुर, जिला गुलशरी (कर्मटक)	लेखा दाखिल नहीं किया।
2.	—वही—	9—आलख	श्री कल्याणप्पा, सुपुत्र रामप्पा पोस्ट डेगाव तालुक अलख (कर्मटक)	—वही—
3.	—वही—	—वही—	श्री शिवात अली, मोहम्मद अली स्थाप पोस्ट सुलतानपुर अलख (कर्मटक)	—वही—



1	2	3	4	5
4. कर्नाटक विधान सभा के लिए साधारण निर्वाचन, 1989	9—आरुण	श्री बीरभा, मारेप्पा केदगांची स्थान बोमनहाल्ली, तालुक भल्लन (कर्नाटक)	लेखा दाखिल नहीं किया	
5. —वही—	10—गुलबर्गा	श्री नागशेट्टी, शंकरप्पा काशी भकान मं. 10-413, संगमेश्वर कलोनी, गुलबर्गा (कर्नाटक)	—वही—	
6. —वही—	—वही—	श्री पुनस भली, म. नं. 11-2910, जीलाभाबाद, एम एस के मल, गुलबर्गा (कर्नाटक)	—वही—	
7. —वही—	13—चिन्तापुर	श्री मलिकार्जुन, हुलबेरा तालुक चिन्तापुर (कर्नाटक)	—वही—	
8. —वही—	14—सेङ्ग	श्री नसोश्वान खुशीव सेदम, जिला गुलबर्गा, (कर्नाटक)	—वही—	
9. —वही—	94—रामनगरम	श्री भार. जयचन्द्र, सुपुल स्वर्गीय रामप्पा गनुमंगला पोस्ट, कोडियालकरेनहाल्ली ग्राम बिदावी होबली, रामनगरम तालुक (कर्नाटक)	—वही—	
10. —वही—	—वही—	श्रीमती निगम्मा धर्मपल्ली श्री शिबुभा मैलेहाल्ली गांव थिम्मासन्ना पोस्ट कुटागल हुबली, रामनगरम तालुक	—वही—	
11. —वही—	—वही—	श्री बीरभा, सुपुल श्री वासप्पा, नं. 3306, बोपेखाना मोहल्ला, रामनगरम कस्बा (कर्नाटक)	—वही—	
12. —वही—	95—मगदी	श्री जयचन्द्र गोडियाला कनूनाहाल्ली बिडावी होबली रामनगरम तालुक (कर्नाटक)	—वही—	
13. —वही—	—वही—	श्री बेट्टास्वामेगोबाबा पेल्लपुरा-थिप्पा सन्ना होबली, मगदी तालुक (कर्नाटक)	—वही—	
14. —वही—	—वही—	श्री एस. एम. सहदेवैया, धोन्नेकोप्पा बंगलोर उत्तर तालुक (कर्नाटक)	—वही—	
15. —वही—	—वही—	श्री मारियाप्प, गोयडा थिम्मेगो बडमपालया, कुडुर होबली, मगदी तालुक (कर्नाटक)	लेखा समय के भीतर और रीति से दाखिल नहीं किया।	
16. —वही—	97—दोदवावलपुर	श्री हनुमन्थप्पा, 58/42 बी क्रोस दोदवावलपुरा, कस्बा (कर्नाटक)	लेखा दाखिल नहीं किया	
17. —वही—	98—वैद्यनाहल्ली (म. जा.)	श्री जी. चिन्हीया धीरासन्न, अब्बुदुदनाहल्ली, पोस्ट, वैद्यनाहल्ली तालुक (कर्नाटक)	—वही—	
18. —वही—	99—होसाकोटे	श्री एस. रमेश, गुनगुन्टे, होसाकोटे तालुक (कर्नाटक)	—वही—	
19. —वही—	—वही—	श्री हसन साब, मुलीबेले, होसाकोटे, तालुक (कर्नाटक)	—वही—	
20. —वही—	128—सोमवारपेट	श्री पी. एम. एस. अब्दुरहीमान जाफरी थंगल, सेवी भली जाफरी थंगल, बालगुडा गांव सोम वारपेट तालुक कोडागू जिला (कर्नाटक)	—वही—	
21. —वही—	135—हसन	श्री श्री फैज अहमद शरीफ, सुपुल श्री एच. अब्दुल गफ्फार शरीफ, पार्टनर इम्पीरियस तालकीस, हसन (कर्नाटक)	—वही—	

1	2	3	4	5
22. कर्नाटक विधान सभा के लिए साधारण निर्वाचन 1989	135—हसन	श्री विजयकुमार एस धार सुपुल रंगेगोबड़ा, मारकुली कोप्पल ( हमलेट ) शास्तीधाम होबली हसन तालुक ( कर्नाटक )	लेखा दाखिल नहीं किया ।	
23. —वही—	152—अंगेरी	श्री एम पद्मनभान सुपुल मामपुल्ली होलेपेट, नोरमरानपुरा कर्नाटक	—वही—	
24. —वही—	—वही—	श्री एम एल एक्सबीर, सुपुल मल लोक इबीकेरे बी. एच. कैमरा पोस्ट, नरसिमा राजेपुर तालुक कर्नाटक	—वही—	
25. —वही—	153—मबीगेरे (अ. जा. )	श्री एच के बोमार्ड, होइसाल गाव जन्नापुरा पोस्ट मुडीगेरी तालुक कर्नाटक ।	—वही—	
26. —वही—	—वही—	श्री बाई एस मरीप्पा, यादुर गावां हिरैबाहले पोस्ट मुडीगेरे तालुक ( कर्नाटक ) ।	—वही—	
27. —वही—	155—बिदर	श्री जी मुंजुलाल स्वामी, सुपुल एम सी गोविन्दप्पा चोबलाहिस्ट कादुर तालुक ( कर्नाटक )	—वही—	
28. —वही—	—वही—	श्री एस. कन्नैहया, सुपुल शान्ताबीरेहया पिल्लेमहाल्ली, कादुर तालुक ( कर्नाटक )	—वही—	
29. —वही—	—वही—	श्री टी एन बेंकट स्वामी सुपुल श्री नरसिम्मागोबड़ा, सेवाभिषुत अश्यापक कलासपुरा, चिकमंगलूर तालुक ( कर्नाटक ) ।	—वही—	
30. —वही—	—वही—	श्री टी स्त्रप्पा, सुपुल थिम्मन्ना विर्गदामल्ली तारीकेरे तालुक ( कर्नाटक ) ।	—वही—	
31. —वही—	156—कादुर	श्री कृष्णजीराव, सुपुल नरसिगांराव शाचार्य स्ट्रीट बोववापेट कादुर ( कर्नाटक ) ।	—वही—	
32. —वही—	—वही—	श्री बशीर अहमद, सुपुल मोहम्मद, पै हयायसाव, पो. घा. के समीप कादुर ( कर्नाटक )	—वही—	
33. कर्नाटक विधान सभा के लिए साधारण निर्वाचन 1989	157—तारीकेरे	श्री धंजनी, सुपुल चिक्काह मुमैप्पा, मुडीपेटे, तारीकेरे कर्नाटक	लेखा दाखिल नहीं किया ।	
34. —वही—	174—धारवाड़ ( ग्रामीण )	श्री मादीबल हुवाप्पा माल्लप्पा तेरगांव तालुक हासीयाल जिला उत्तर कन्नडा, ( कर्नाटक )	—वही—	

[सं. 76/कर्ना.-वि. स./ 90 (1 से 34)/1168]

## ORDER

O.N. 15.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to Legislative Assembly specified in column (2) and held from the constituency specified in column (3) against his/her name has failed to lodge an account of his/her election expenses in the manner or has not lodged the account at all as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

Sl. No.	Particulars of election	S. No. & Name of Constituency	Name of Contesting candidate	Reason for Disqualification
1	2	3	4	5
1.	General Election to to Karnataka Legislative Assembly, 1989.	8-Kamalapur	Sh. Khem Singh R/o Baloorgi Taluk Afazalpur, Distt. Gulbarga (Karnataka).	Accounts not lodged.
2.	—do—	9-Alland	Sh. Kalyanappa S/o Rayappa, At Post Degaon Tq. Alland (Karnataka).	—do—
3.	—do—	—do—	Sh. Khiyat Ali, Mohammed Ali, At Post Sultanpur, Alland (Karnataka)	—do—
4.	—do—	—do—	Sh. Veeranna Mareppa, Kedganchi, At Bomanahalli, Tq. Alland (Karnataka).	—do—
5.	—do—	10— Gulbarga	Sh. Nagshetty Shankerappa Kagi, H.No. 10-413, Sangameshwar Colony, Gulbarga (Karnataka).	—do—
6.	—do—	—do—	Sh. Yunus Ali H.No. 11-2910, Jeelanabad M SK, Mill, Glbarga, (Karnataka).	—do—
7.	—do—	13— Chittapur	Sh. Mallikarjun Hulgera Taluk, Chittapur (Karnataka).	—do—
8.	—do—	14—Sedam	Sh. Naseeroddin Khurshid, Sedam, Distt. Gulbarga, (Karnataka).	—do—
9.	—do—	94-Ramanagaram	Sh. R. Jayachandra S/o Late Ramaiah Shanumangala Post, Kodiyalakarenahalli Village, Bidadli Hobli, Ramanagaram Taluk (Karnataka).	—do—
10.	—do—	—do—	Smt. Ningamma W/o Shivanna Melehalli Village, Thimmasandra Post, Kutagal Hobli, Ramanagaram Taluk (Karnataka).	—do—

1	2	3	4	5
11.	General Election to Karnataka Legislative Assembly, 1989.	-do-	Sh. Veeranna, S/o Dasappa, No. 3306 Thopekhana Mohalla, Ramanagaram Town (Karnataka).	Accounts not Lodged.
12.	-do-	95-Magadi	Sh. Jayachandra, Kodiyala Karenahalli, Bidaci Hobli, Ramanagaram Taluk (Karnataka).	-do-
13.	-do-	-do-	Sh. Bettaswamegowda, Yellapura, Thippasandra Hobli, Magadi Taluk (Karnataka).	-do-
14.	-do-	-do-	Sh. S.M. Sahadevaiah, Sondekoppa, Bangalore North Taluk (Karnataka).	-do-
15.	-do-	-do-	Sh. Mariyappagowda, Thimmegowdanapalya, Kudur Hobli, Magadi Taluk (Karnataka)	Accounts not lodged within the time and in the manner.
16.	-do-	97-Doddaballapura	Sh. Hanumanthappa 58/42, 'D' Cross, Doddaballapura Town (Karnataka).	Accounts not lodged
17.	-do-	98-Devanahalli (SC)	Sh. G. Chinnaiah Beerasandra, Aluruddanahalli Post, Devanahalli Taluk (Karnataka).	-do-
18.	-do-	99-Hoskote	Sh. S. Ramesha, Yenagunte Hoskote Taluk (Karnataka).	-do-
19.	-do-	-do-	Sh. Hasen Sab, Sulibele, Hoskote Taluk Karnataka).	-do-
20.	-do-	128-Somwarpet	Sh. P.M.S. Abdurahiman Jifry Thangal, S/o Syedi Ali Jefry' Thangal, Balagunda Village, Somwarpet Taluk, Kodagu Distt. (Karnataka).	-do-
21.	-do-	135-Hassan	Sh. Fiaz Ahmed Shariff, S/o H. Abdul Gaffar Shariff, Partner, Imperial Talkies, Hassan (Karnataka).	-do-
22.	-do-	-do-	Sh. Vijaykumar S.R. S/o Rangegowda, Markuli Koppal (Hamlet) Shantigrama Hobli, Hassan Taluk (Karnataka).	-do-

1	2	3	4	5
23.	General Election to Karnataka Legislative Assembly, 1989.	152-Sringeri	Sh. M. Padmanabhan S/o Manapulli, Halepete, Naraimarajpura (Karnataka).	Accounts not lodged.
24.	-do-	-do-	Sh. M.L Xavier S/o M. Lok, Eachikere B.H. Kaimara Post Narshimaraja Pura Taluk (Karnataka).	-do-
25.	-do-	153-Mudigere (SC)	Sh. H.K. Bommaiah Hoisalu Village, Jannapura Post, Mudigere Taluk (Karnataka).	-do-
26.	-do-	-do-	Sh. Y.S. Mariyaiah, Yadur Village, Hirebyle Post, Mudigere Taluk (Karnataka).	-do-
27.	-do-	155-Birur	Sh. G. Manjunatha Swamy, S/o M.C. Govindappa, Chowlahirpur, Kadur Taluk (Karnataka).	-do-
28.	-do-	-do-	Sh. S. Rudraiah, S/o Shanthaveeraiah, Pillenahalli, Kadur Taluk (Karnataka).	-do-
29.	-do-	-do-	Sh. T.N, Venkata Swamy S/o Narashimmegowda Retired Teacher, Kalasapura, Chikmagalur Tq. (Karnataka).	-do-
30.	-do-	-do-	Sh. T. Rudrappa, S/o Thimmanna, Lingadamalli, Tarikere Taluk (Karnataka).	-do-
31.	-do-	156-Kadur	Sh. Krishnoji Rao, S/o Narasinga Rao, Acharaya Street, Doddapete, Kadur (Karnataka).	do
32.	-do-	-do-	Sh. Bashir Ahmed, S/o Mohamed. Hayathsab, Near Post Office, Kadur (Karnataka)	-do-
33.	-do-	157-Tarikere	Sh. Anjani S/o Chikkahanumaiah, Tudipete, Tarikeire, (Karnataka).	-do-

1	2	3	4	5
34.	General election to Karnataka Legislative Assembly, 1989	174-Dharwad (Rural)	Sh. Madival Huvappa Yallappa, Tergaon, Taluk Haliyal Distt. Uttar Kannada (Karnataka).	Accounts not lodged.

[No. 76/KT-LA/90 (1 to 34)/1168]

#### आदेश

आ. प्र. 16:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथाविनिर्दिष्ट लोक सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला अभ्यर्थी लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विनिर्देशन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथावर्णित अपने निर्वाचन व्ययों का लेखा वाखिल करने में असफल रहा है ;

और उक्त, अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए न तो कोई कारण, न स्पष्टीकरण ही दिया है। और उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यित्य नहीं है।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में, नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा उक्त विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

#### सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की क्रम सं. और पता	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरर्हता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1989	10—कोलार (म. जा.)	श्री विद्यागुरु गंगा धरम मार्केट रिटायर्ड नरसिम्हैया सं. 1253 कुम्भारपेट कोलार ( कर्नाटक )	लेखा वाखिल नहीं किया

[सं. 76/ कर्ना./90 (1)/1161]

आदेश से,  
सी. एन. रोज, सचिव

#### ORDER

O.N. 16 . . . Whereas the Election Commission is satisfied that the contesting candidate specified in column (4) of the Table below at the election to the House of the People specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas the said candidate has not furnished any reason or explanation for the said failure even after due notice the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

1	2	3	4	5
Particulars of election No.	S.No. & name of consti- tuency	Name of contesting candidates	Reasons for disqualification	
General Election to the Lok Sabha, 1989	10-Kolar (SC)	Sh. Yidagur Gangadharam, C/o Retired Narasimhaiah, No. 1253, Karubarpet, Kolar (Karnataka).	Account not lodged.	

[No. 76/KT/90(1)/1161]

By Order,  
C.L. ROSE, Secy.

